

Franziska Grashof

National Procedural Autonomy Revisited



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National Procedural Autonomy Revisited Administrative

Inês Quadros, Miguel Gorjão-Henriques

National Procedural Autonomy Revisited Administrative:

Cases, Materials and Text on Judicial Review of Administrative Action Chris Backes, Mariolina Eliantonio, 2019-08-08 This casebook studies the law governing judicial review of administrative action. It examines the foundations and the organisation of judicial review, the types of administrative action and corresponding kinds of review and access to court. Significant attention is also devoted to the conduct of the court proceedings, the grounds for review and the standard of review and the remedies available in judicial review cases. The relevant rules and case law of Germany, England and Wales, France and the Netherlands are analysed and compared. The similarities and differences between the legal systems are highlighted. The impact of the jurisprudence of the European Court of Human Rights is considered as well as the influence of EU legislative initiatives and the case law of the Court of Justice of the European Union in the legal systems examined. Furthermore, the system of judicial review of administrative action before the European courts is studied and compared to that of the national legal systems. During the last decade, the growing influence of EU law on national procedural law has been increasingly recognised. However, the way in which national systems of judicial review address the requirements imposed by EU law differs substantially. The casebook compares the primary sources: legislation, case law, etc. of the legal systems covered and explores their differences and similarities. This examination reveals to what extent a *ius commune* of judicial review of administrative action is developing.

National Procedural Autonomy Revisited Franziska Grashof, 2016 National Procedural Autonomy Revisited reconsiders one of the leading principles of European administrative law: the principle of national procedural autonomy. The book shows that due to different national administrative litigation rules, common European rules are enforced in a fragmented manner. This is illustrated with the example of the judicial enforcement of Directive 2011/92/EU on environmental impact assessment for projects in the legal systems of Germany, England and the Netherlands. Under the same rule of EU law, litigants are treated procedurally unequal. As well, there are different enforcement chances and judges come to different conclusions not because of diverging interpretations of the law but because of different administrative litigation rules. Subsequently, the book discusses whether it is necessary, desirable and possible to develop common rules of administrative litigation in environmental matters in the EU. It is argued that by means of the instruments which are available in the EU – specifically legislation, jurisprudence and comparative scholarship – a more precise common standard for administrative litigation in environmental matters should be created so that the principle is *ubi ius europaeum ibi remedium europaeum*. Librarians: ebook available. Series: European Administrative Law Vol. 10. Subject: EU Law, Environmental Law.

Good Administration and the Council of Europe Ulrich Stelkens, Agnė Andrijauskaitė, 2020-09-11 Good Administration and the Council of Europe Law: Principles and Effectiveness examines the existence and effectiveness of written and unwritten standards of good administration developed within the framework of the Council of Europe (CoE) and in the case law of the European Court of Human Rights. These standards, called pan-European general principles of good

administration cover the entire range of general organizational procedural and substantive legal institutions meant to ensure a democratically legitimized open and transparent administration respecting the rule of law They are about the limiting function of administrative law its function to protect individuals from arbitrary power to legitimize administrative action and to combat corruption This book analyses the sources and functions of the pan European general principles of good administration and seeks to uncover how deeply they are rooted in the domestic legal systems of the CoE Member States It comprises 28 country reports dedicated to an in depth exploration of the impact of these standards on the national legal systems of the Member States written by respective experts on these systems It argues that the pan European general principles of good administration lead to a certain harmonization of the legal orders of the Member States with regard to the limiting function of administrative law despite the many fundamental differences between their administrative and legal systems It comes to the further conclusion that the pan European general principles of good administration can be considered as a concretization of the founding values of the CoE and describes the administrative law obligations a Member State entered into when joining the CoE

The Interim Protection of Individuals Before the European and National Courts Dimitrios Sinaniotis, 2006-01-01 This thesis focuses on the interim protection of the individual in the Community legal order An analysis will be made of the avenues available to individuals for requesting interim relief when a case is brought before the European or the national courts An extensive examination of the relevant case law will be performed to reveal what appears to be an evolving concept of the individual's interim protection in the European Community structure and to suggest any possible changes in order to guarantee an effective remedy of interim relief

Standing to Enforce European Union Law before National Courts Hilde K Ellingsen, 2021-03-25 Access to court has long been recognised as an essential element of a Union based on the rule of law This book asks how can Member States ensure that their rules on standing guarantee that right The book answers this question by analysing the requirements of EU law from two angles first the effective protection of Union rights second the effectiveness of Union law per se With detailed case law examination the book formulates an autonomous Union law doctrine of standing based on the principle of effective judicial protection It then goes further setting out an effectiveness test of Member States enforcement mechanisms to ensure that EU law is rendered operative in practice This is a rigorous study on a question of immense importance

The Law of the European Union and the European Communities Pieter Jan Kuijper, Fabian Amtenbrink, Deirdre Curtin, Bruno De Witte, Alison McDonnell, 2018-09-28 The Law of the European Union is a complete reference work on all aspects of the law of the European Union including the institutional framework the Internal Market Economic and Monetary Union and external policy and action Completely revised and updated with many newly written chapters this fifth edition of the most thorough resource in its field provides the most comprehensive and systematic account available of the law of the European Union EU Written by a new team of experts in their respective areas of European law its coverage incorporates and embraces many current controversial and emerging

issues and provides detailed attention to historical development and legislative history of EU law Topics that are constantly debated in European legal analysis and practice are touched on in ways that are both fundamental and enlightening including the following powers and functions of the EU law institutions and relationship among them the principles of equality loyalty subsidiarity and proportionality free movement of persons goods services and capital mechanisms of constitutional change treaty revisions accession treaties withdrawal agreements budgetary principles and procedures State aid rules effect of Union law in national legal systems coexistence of EU European Convention of Human Rights ECHR and national fundamental rights law migration and asylum law liability of Member States for damage suffered by individuals competition law cartels abuse of dominant position merger control social policy equal pay and equal treatment environmental policy consumer protection public health cultural policy education and tourism nature of EU citizenship its acquisition and loss and law and policy of the EU s external relations The fifth edition embraces many new ongoing and emerging European legal issues As in the previous editions the presentation is notable for its attention to how the law relates to economic and political realities and how the various policy areas interact with each other and with the institutional framework The many practitioners and scholars who have relied on the predecessors of this definitive work for years will welcome this extensively revised and updated edition Those coming to the field for the first time will instantly recognize that they are in the presence of a masterwork that can always be turned to with profit and that helps in understanding the rationale underlying any EU law provision or principle

Article 47 of the EU Charter and Effective Judicial Protection, Volume 2 Matteo

Bonelli, Mariolina Eliantonio, Giulia Gentile, 2023-11-02 This ambitious innovative project examines the principle of effective judicial protection in EU law over two volumes The principle of effective judicial protection is a cornerstone of the EU s judicial system and is re affirmed in Article 47 of the Charter of Fundamental Rights of the European Union Since the 1980s the Court of Justice has used the principle to shape EU and national procedural rules more recently the principle has acquired an even more central role in the EU constitutional structure In the second volume an expert team explores how the national courts have applied Article 47 and the principle of effective judicial protection It takes a comparative overview of the case law to assess the level of convergence or divergence of the national courts approaches The questionnaire methodology allows for an accurate charting of national courts application of Article 47 at the domestic level Given the wide application of Article 47 the collection will be of interest to EU constitutional scholars comparative lawyers as well as civil servants at both the national and EU level

EU Administrative Law Paul P. Craig, 2018 Part I Administration and Law 1 History and

Typology 2 Crisis Reform and Constitutionalization 3 Centralized Management 4 Shared Management 5 Comitology 6 Agencies 7 Open Method of Coordination 8 Social Partners Part II Law and Administration 9 Foundations 10 Courts 11 Access

EU and EEA Law Litigation Before National Courts Zsófia Varga, 2024-03-07 This book provides practical and comprehensive guidance for national practising lawyers judges and litigation attorneys on the application of EU EEA law

before national courts It describes the essential rules regarding the application of EU EEA law before national judicial instances and structures them systematically in order to enable national judges and litigation attorneys to comprehend the main standards In short the book is about legal norms that would fall under the category of civil and administrative procedural law in a national legal order These rules developed by the ECJ and the EFTA Court govern when and how national judges should apply EU EEA law in national proceedings The book is divided into six chapters each dealing with a specific topic For pragmatic purposes the structure of the chapters is uniform and each chapter can be read individually As the norms have been developed by the ECJ EFTA court and consist mainly of case law principles the topics are presented based on thorough analysis of the judgments rendered by those courts The book s unique practical focus makes a great addition to the library of any national lawyer and EU law expert

Principles of Administrative Procedure in EC Law Hanns Peter Nehl,1999-01-01 This book presents an analysis of the recent development of administrative procedures in EC law It is a pathbreaking study of what might be termed the constitutionalising norms now emerging including a range of process rights and procedural standards such as the right to access to information the right to be heard the principle of care and duty to state reasons These new standards are increasingly applied in areas as diverse as competition State aids customs matters anti dumping and the European Social Fund Different strands of case law of the EC courts are thus connected to document the overall evolution of procedural rules peculiar to the EC administrative system as a whole The author adopts a critical stance in particular towards the case law of the Court of First Instance and points out the increasing pressure being brought to bear on the European Commission in respect of its procedural requirements Particular emphasis is placed on the concept of care i e the duty to collect and examine the factual and legal points of individual cases impartially and carefully The book reveals both the theoretical and practical relevance of this principle as a means of both procedural and substantive review and the reasons why it is likely to be misinterpreted by the courts

Revisiting the Liberal Constitutional Features of the European Union Inês Quadros,Miguel Gorjão-Henriques,2025-08-27 This book offers an innovative insight into constitutionalism as a well established framework for describing the legal and political features of the European Union It revisits and updates the core pillars upon which the European way of life was built liberal democratic constitutionalism while confronting the threats the EU is currently facing Examining the political tensions that surface in the European Union the tools used to address the rule of law crisis and the challenges posed to the autonomy of EU law while offering a fresh look into contemporary EU policies the book is a valuable resource for scholars researchers and practitioners eager to engage in the ongoing European dialogue

Essays in Honour of Henry G. Schemers, Volume 2 Institutional Dynamics of European Integration Deirdre M. Curtin,Ton Heukels,2023-07-24 Institutional Dynamics of European Integration is devoted to the topic of the institutional law of the Communities and contains a timely collection of essays by eminent experts While this volume will certainly refine legal understanding of the European Union in its present complex phase of

development it also constitutes a warm personal tribute to Henry Schermers teacher and scholar of international renown and a pioneer of European Community law

Market Supervision in the European Union Pieter van Cleynenbreugel, 2014-09-25

In *Market Supervision in the European Union* Pieter Van Cleynenbreugel compares and reconstructs the emergence of divergently structured supranational market supervision mechanisms in six different sectors of EU regulation competition financial services chemicals consumer law electronic communications and energy EU market supervision developments have been plentiful over the past decade but have so far mainly been studied in their own sector specific context On the basis of an innovative cross sector investigation Pieter Van Cleynenbreugel identifies and conceptualises common or converging EU constitutional benchmarks underlying those sector specific administrative design developments Those benchmarks better allow to conceptualise predict and restrain future EU integrated administration structures and initiatives in those and other fields of European Union law

Central European Judges Under the European Influence Michal Bobek, 2015-11-19

The onset of the 2004 EU enlargement witnessed a number of predictions being made about the approaches capacity and ability of Central European judges who were soon to join the Union Optimistic voices foreshadowing the deep transformative power that Europe was bound to exercise with respect to the judicial mentality and practice in the new Member States were intertwined with gloomy pictures of post Communist limited formalism and mechanical jurisprudence that could not be reformed which were likely to undermine the very foundations of mutual trust and recognition the judicial system of the Union is built upon Ten years later this volume revisits these predictions and critically assesses the evolution of Central European judicial mentality institutions and constitutionality under the influence of the EU membership Comparatively evaluating the situation in a number of Central European Member States in their socio legal contexts notably Poland the Czech Republic Slovakia Hungary Slovenia Bulgaria and Romania the volume offers unique insights into the process of non Europeanisation of national legal systems and cultures

The Effectiveness of the Köbler Liability in National Courts Zsófia Varga, 2020-10-15

Over the last 15 years Köbler liability has resulted in the allocation of damages on only five occasions Why is that And what are the practical implications of the Köbler judgment in the Member States This book offers a unique analysis of the principle not from the usual EU focused point of view but from the view of the practical Member State and thus follows the track set by earlier books in the EU Law in the Member States series It thoroughly examines the national jurisprudential and legislative acceptance of the state liability principle and explores the existence of alternative remedies available in the Member States in case of such breaches The conclusions based on a systematic assessment of 300 national judgments from the 28 Member States lead to a reconsideration of the role of the Köbler doctrine in the system of judicial remedies against violation of EU law by national supreme courts After the pronouncement of the ECJ judgment in Köbler legal scholars and practitioners have forecast the eradication of the principle of res judicata and the endangering of judicial independence The judgment caused a lot of ink to flow according to the ECJ's records at least 100 studies are directly

devoted to the analysis of this decision This book is however the first to offer a comprehensive analysis on the genuine life of the Kbler liability in the Member States **National Remedies Before the Court of Justice** Michael Dougan,2004-12-21 The Court of Justice has delivered an extensive body of caselaw concerning the obligation of domestic courts to provide effective judicial protection to claimants relying upon Community law rights including such landmark judgments as Factortame and Francovich This book offers a critical analysis of the Court s fast changing approach to national procedural autonomy and explores the difficult conceptual framework underpinning the caselaw The author demonstrates how Community intervention in the domestic systems of judicial protection cannot remain unaffected by wider debates about the evolving European integration project in particular the tension between uniformity and differentiation as competing values influencing the exercise of Community regulatory competence Because of its emphasis on an ideal of uniformity which has become increasingly untenable within the contemporary Community legal order much of the existing academic discourse about national remedies and procedural rules now seems ripe for reconsideration It is argued that the Court s jurisprudence on the decentralised enforcement of Treaty norms needs to be interpreted afresh having regard to the recent growth of regulatory differentiation within the Community system National Remedies Before the Court of Justice provides a challenging account of this crucial field of EU legal studies It includes detailed discussion of issues such as Member State liability in damages Community control over national limitation periods and the principles governing state aid and competition law enforcement This book is of value to academics and practitioners alike **The Enforcement of EU Law and Values** András Jakab,Dimitry Kochenov,2017-04-07 It is clear that the current crisis of the EU is not confined to the Eurozone and the EMU evidenced in its inability to ensure the compliance of Member States to follow the principles and values underlying the integration project in Europe including the protection of democracy the Rule of Law and human rights This defiance has affected the Union profoundly and in a multi faceted assessment of this phenomenon The Enforcement of EU Law and Values Ensuring Member States Compliance dissects the essence of this crisis examining its history and offering coping methods for the years to come Defiance is not a new concept and this volume explores the richness of EU level and national level examples of historical defiance the French Empty Chair policy the Luxembourg compromise and the FP crisis in Austria and draws on the experience of the US legal system and that of the integration projects on other continents Building on this legal political context the book focuses on the assessment of the adequacy of the enforcement mechanisms whilst learning from EU integration history Structured in four parts the volume studies 1 theoretical issues on defiance in the context of multi layered legal orders 2 EU mechanisms of *acquis* and values enforcement 3 comparative perspective on law enforcement in multi layered legal systems and 4 case studies of defiance in the EU Convergence and Divergence in European Public Law Paul Beaumont,Carole Lyons,Neil Walker,2002-06-07 This book grew out of a symposium held in the University of Aberdeen in May 2000 It examines the extent to which the European Union has brought about and should bring about

convergence of law in Europe in particular but not exclusively public law in Europe Rather than focusing narrowly on the Intergovernmental Conference process the book engages those who wish a detached and at times theoretical examination of the politics of institutional reform in the EU Michael Keating and Joanne Scott of the legal techniques for accommodating diversity within the Union and the process of treaty making or constitution building in the EU Deirdre Curtin Ige Dekker Bruno de Witte and Carole Lyons the cross fertilisation of administrative law concepts between the EU level and the national level Chris Himsworth Ton Heukels and Jamila Tib the need for and legitimacy of a European Union competence on human rights Gr inne de B rca Paul Beaumont and Niamh NicShuibhne and whether private law and public law differ in the extent to which they go to the heart of reflect national culture and therefore in the extent to which they are amenable to convergence Carol Harlow Pierre Legrand and Neil Walker

Termination Revisited Kenneth R. Philp, 2002-05-01 CHOICE Outstanding Academic Book Philp presents a well balanced account of the legal political and economic relationships between Native Americans and the U S government during the period shortly before the Indian Reorganization Act 1935 to Termination the program to dissolve tribal relationships with the federal government Philp brilliantly ties together the shifting stances of governmental and tribal officials Choice Termination Revisited is without question an important book It will be required reading for any serious student of modern Indian history Nevada Historical Society Quarterly The best account we have to date of policy formation during the Truman administration But there is more Philp s narrative introduces actors who have not figured prominently in previous accounts of the period He also illuminates reservation life and politics in the 1940s and 1950s Philp s book charts the course for many new studies come Western Historical Quarterly Philp s book is gracefully written founded on nearly thirty years of research and finely balanced in its assessments This history makes sense out of much of the nonsense touching lives of several hundreds of thousands of American Indians in the twentieth century Oregon Historical Quarterly Kenneth R Philp is a professor of history at the University of Texas Arlington He is the author of John Collier s Crusade for Indian Reform 1920 1954

Sovereign Choices and Sovereign Constraints Gus Van Harten, 2013-10-03 Investment arbitrators rely on sovereignty for their legal status just as investor state disputes usually stem from disagreements about the role of the state in society As a result investment arbitration is a vehicle for the exercise of sovereign authority and a site for contesting sovereign choices This book investigates and evaluates the decision making record and policy trajectory of international investment arbitration from theoretical doctrinal and empirical perspectives It analyses the extent to which the system used to resolve disputes impacts on the role of government affecting diverse constituencies as opposed to limiting itself to case specific disputes between a single business enterprise and state entity The book provides a comprehensive review of known awards in order to determine the types of government measures that have triggered disputes It investigates how investment arbitrators have exercised their authority in recent case law It provides a review of the approaches adopted in the reasoning of investment treaty tribunals on questions of judicial deference and

respect for sovereign decision makers In doing so it determines whether investment tribunals have taken a predominantly assertive approach to investor protection without regard to their relative lack of accountability capacity or proximity in some cases This approach does not sit comfortably with the relative restraint seen by domestic and international courts in similar contexts The book argues that the unique characteristics of investment treaty arbitration make the experience of domestic judicial review more pertinent to international investment arbitration than to any other contexts for international adjudication However it argues that mediating devices in some form should be incorporated into the process in order to solve the tension between the extensive scope and potency of international investment arbitration as an important site of global governance and the challenges of the review function in reviewing decisions which have strong claims to having comprehensive regulatory expertise inclusive decision making electoral or other public accountability or greater proximity to the underlying facts and context Online Appendices

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Table of Contents National Procedural Autonomy Revisited Administrative

1. Understanding the eBook National Procedural Autonomy Revisited Administrative
 - The Rise of Digital Reading National Procedural Autonomy Revisited Administrative
 - Advantages of eBooks Over Traditional Books
2. Identifying National Procedural Autonomy Revisited Administrative
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an National Procedural Autonomy Revisited Administrative
 - User-Friendly Interface
4. Exploring eBook Recommendations from National Procedural Autonomy Revisited Administrative
 - Personalized Recommendations
 - National Procedural Autonomy Revisited Administrative User Reviews and Ratings
 - National Procedural Autonomy Revisited Administrative and Bestseller Lists
5. Accessing National Procedural Autonomy Revisited Administrative Free and Paid eBooks
 - National Procedural Autonomy Revisited Administrative Public Domain eBooks
 - National Procedural Autonomy Revisited Administrative eBook Subscription Services
 - National Procedural Autonomy Revisited Administrative Budget-Friendly Options

6. Navigating National Procedural Autonomy Revisited Administrative eBook Formats
 - ePub, PDF, MOBI, and More
 - National Procedural Autonomy Revisited Administrative Compatibility with Devices
 - National Procedural Autonomy Revisited Administrative Enhanced eBook Features
7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of National Procedural Autonomy Revisited Administrative
 - Highlighting and Note-Taking National Procedural Autonomy Revisited Administrative
 - Interactive Elements National Procedural Autonomy Revisited Administrative
8. Staying Engaged with National Procedural Autonomy Revisited Administrative
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers National Procedural Autonomy Revisited Administrative
9. Balancing eBooks and Physical Books National Procedural Autonomy Revisited Administrative
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection National Procedural Autonomy Revisited Administrative
10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
11. Cultivating a Reading Routine National Procedural Autonomy Revisited Administrative
 - Setting Reading Goals National Procedural Autonomy Revisited Administrative
 - Carving Out Dedicated Reading Time
12. Sourcing Reliable Information of National Procedural Autonomy Revisited Administrative
 - Fact-Checking eBook Content of National Procedural Autonomy Revisited Administrative
 - Distinguishing Credible Sources
13. Promoting Lifelong Learning
 - Utilizing eBooks for Skill Development
 - Exploring Educational eBooks
14. Embracing eBook Trends
 - Integration of Multimedia Elements

- Interactive and Gamified eBooks

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