

Review of: Matthias Ruffert, Law of Administrative Organization of the EU: A Comparative Approach, Cheltenham/Northampton: Edward Elgar, 2020 (264 p.)

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Law of Administrative Organization of the EU: A Comparative Approach

Matthias Ruffert

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Subject

Administrative law

Reviewed by: Mariolina Eliantonio

***E.L. Rev. 147** Studying the European Union as an "administrative organisation" is by now well established in doctrine. From the seminal book of Jürgen Schwarze concentrating on the role of legal principles in European administrative law (*European Administrative Law* (London: Sweet & Maxwell, 2006)), through the conceptualisation of the European Union as an "administrative union" (*Schmidt-Aßmann and Schöndorf-Haubold, Der Europäische Verwaltungsverbund—Formen und Verfahren der Verwaltungszusammenarbeit in der EU* (Mohr-Siebek, 2005)) to the recent encyclopedic studies of the "administrative functioning" of the European Union (*Hofmann, Rowe and Türk, Administrative Law and Policy of the European Union* (Oxford University Press, 2011)), the body of literature concerning various aspects of the administrative law of the European Union is ever growing. Significantly, however, the law of the administrative organisation of the European Union has been until now neglected in legal research. While research on the process of "agencification" of the European Union has been burgeoning (e.g. *Chamon, EU Agencies: Legal and Political Limits to the Transformation of the EU Administration* (Oxford: Oxford University Press, 2016); *Scholten and Brenninkmeijer (eds), Controlling EU Agencies—The Rule of Law in a Multi-jurisdictional Legal Order* (Cheltenham: Edward Elgar, 2020)), little systematic attention has been dedicated to discerning the overarching structures of the administrative organisation of the European Union.

The book under review fills this important gap by proving a comprehensive conceptualisation of the administrative organisation of the European Union. The book does so through a comparison with the US administration. While the most straightforward "comparator" would have been the law of the administrative organisation of the Member States, the author chooses a legal system which, in his view, matches that of ***E.L. Rev. 148** the EU in terms of its "size, economic power and federal structure" (p.5). The objective of this comparison is to achieve the conceptual systematisation which is currently missing with respect to the administrative organisation of the European Union.

In order to achieve its objective, the book tackles the law of the administrative organisation of the European Union with reference to three aspects; namely, terminology, the existing mechanisms of control and oversight and the horizontal and vertical interconnections between administrative authorities.

Starting from the premise that the law of the administrative organisation of the European Union lacks a conceptual basis, and it is not a synthesis of the respective national laws, Ch.3 of the book reaches a conceptual systematisation of the administrative organisation of the European Union and discusses the relevant terminology, concluding that Treaty reform would be welcome to bring further clarity in the terminology and reducing legal uncertainty. The author suggests, in particular, a reform of [art.289 TFEU](#) whose scope and reach has been much debated in doctrine especially with respect to the RENEUAL model rules (see the website of the project: <http://www.reneual.eu/> [Accessed 17 December 2021] and Herwig C.H. Hofmann, Jens-Peter Schneider and Jacques Ziller, "The Research Network on European Administrative Law's Project on EU Administrative Procedure—Its Concepts, Approaches and Results" (2014) 7 *Review of European Administrative Law* 45–64).

Chapter 4 then moves to analyse the control and oversight mechanisms in the administrative organisation of the European Union, which are seen as tools to enhance the legitimacy of the EU administrative action. These range from political to administrative and financial accountability mechanisms and lead the author to the conclusion that the current system is piecemeal and incoherent in nature. As a consequence, he proposes a number of changes, including a re-arrangement of the *Meroni* doctrine (*Meroni & Co Industrie Metallurgiche SpA v High Authority of the European Coal and Steel Community* (9/56)

EU:C:1958:7), or rather an amendment complementing the current doctrine to foresee control and oversight mechanisms that take the political implications of delegating seemingly technical questions into account and will, at the same time, provide for sufficient accountability and legitimacy credentials to the administrative organisation of the European Union. Again, a proposal to amend [art.289 TFEU](#) is brought forward, delineating clear accountability patterns.

Finally, Ch.5 deals with the vertical and horizontal relationships between administrative authorities—a thorny topic in view of the hybrid nature of the European Union legal system, displaying undeniable federal elements, but incapable of being denoted as a federation. Discussing the well-known system of "integrated administration" in the European Union, and their most prominent actors (comitology committees, agencies and networks), the author puts the accent on the fact that this administrative integration has been reached only in steps and is, as yet, an unfinished product. Also, it results in a very different system to that of the US, where the federal and state levels proceed—in principle—in parallel.

By way of conclusion, the author puts forward a number of observations. First, that "there can be unity in plurality" (p.211) so that "polycentricity" need not be an excuse to escape clear conceptualisations and terminology, with or without (albeit desirable) Treaty amendment. Secondly, that "polycentricity" is also not a shield against the need to establish suitable control and oversight mechanisms (of a political, administrative, or financial nature) so as to legitimise the EU administrative action, even in those fields which are regarded as "a-political". Thirdly, that any attempt to reform the system needs to take the unique nature of the EU into account to devise a system which is "fitting" to its—incomplete—constitutional framework.

All in all, the book provides an excellent overview of the current state of the law of the administrative organisation of the European Union, as well as a sound conceptualisation of the phenomenon. Furthermore, through the comparative analysis, it also provides unique insights into the law of the administrative organisation of France, Germany, the United Kingdom, as well as the United States. With regards to this latter point, the book deserves a special praise for the in-depth methodological chapter, where the author **E.L. Rev. 149* tackles the merits but also shortcomings of the comparative method with special reference to administrative law comparisons.

There is certainly more to be researched in this area, and more "interconnections" (to use one of the author's terminologies) would be welcome between scholars working on European (administrative) law and the comparativists to understand better the "history", but also the peculiarities of the administrative apparatus and working of the European Union.

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