

Table of contents

List of abbreviations	11
Foreword	13
Presentation	21
Chapter 1.—Introduction	25
1.1. OBJECTIVE	25
1.2. STRUCTURE	27
1.3. METHODOLOGY	32
Chapter 2.—The European Union’s public administration	35
2.1. JUSTIFICATION, METHOD AND TERMINOLOGY	35
2.2. HISTORICAL AND COMPARATIVE BACKGROUND OF A EUROPEAN PUBLIC ADMINISTRATION	37
2.2.1. <i>Original design of a European public administration</i>	37
2.2.2. <i>The different models of federalism: dual federalism, cooperative federalism and executive federalism</i>	40
2.2.3. <i>The transformation into a new cooperative model</i>	45
2.3. THE MISMATCH: TODAY’S EUROPEAN PUBLIC ADMINISTRATION AND THE CLASSICAL LEGAL APPROACH	47
2.4. A EUROPEAN PUBLIC ADMINISTRATION THOROUGHLY DIFFERENT FROM ITS NATIONAL COUNTERPARTS	53
2.5. THE IMPACT OF THE EUROPEAN INTEGRATION PROCESS IN EUROPEAN PUBLIC ADMINISTRATION	59
2.6. EUROPEAN PUBLIC ADMINISTRATION IN THE TREATY OF LISBON	64
2.6.1. <i>An open, efficient and independent European administration as an objective in the Treaties. Article 298(2) TFEU</i>	64
2.6.2. <i>Hierarchy of norms. Articles 290 and 291 TFEU</i>	70
2.6.3. <i>Fundamental rights. Articles 41 and 42 ChFR</i>	72
2.6.4. <i>The constitutionalisation of a European public administration</i>	74
2.7. WHAT PUBLIC ADMINISTRATION? A EUROPEAN ADMINISTRATION, A UNION ADMINISTRATION AND AN INTEGRATED ADMINISTRATION OF THE EU	75
2.7.1. <i>Arguments for a European public administration</i>	75
2.7.2. <i>The polysemy of a «European public administration»</i>	77
2.8. CONCLUSIONS	83

Chapter 3.—Administrative procedures in the European Union	87
3.1. PRELIMINARY REMARKS	87
3.2. EARLY HISTORICAL AND ACADEMIC BACKGROUND OF THE NOTION OF ADMINISTRATIVE PROCEDURES	89
3.2.1. Scholarly notion of administrative procedures	89
3.2.2. Early concept of administrative procedures in Europe and in other countries	91
3.2.3. The evolution towards a more central role of administrative procedures	97
3.2.4. The pending transformation of administrative procedures	104
3.3. THE CONCEPT OF ADMINISTRATIVE PROCEDURES IN EUROPEAN COMPARATIVE LAW	106
3.4. THE CONCEPT OF ADMINISTRATIVE PROCEDURES IN THE EUROPEAN UNION	113
3.4.1. Is there such a thing as an «administrative procedure» of the European Union?	113
3.4.2. The initial irrelevance of administrative procedures in the European Communities	117
3.4.3. The evolution and consolidation of administrative procedures at the EU level	119
3.4.4. The case law of the Court of Justice and the development of general principles of European administrative procedural law	122
3.4.5. The codification of administrative procedures in the European Union	136
3.4.6. Types of administrative procedures from the EU perspective	144
3.5. CONCLUSIONS	146
Chapter 4.—Composite procedures	149
4.1. PRELIMINARY REMARKS	149
4.2. COMPOSITE PROCEDURES: CONCEPT, TERM AND SCHOLARLY ATTENTION	150
4.2.1. <i>What are composite procedures?</i>	150
4.2.2. <i>Why the term «composite procedures»?</i>	154
4.2.3. <i>The increasing importance of composite procedures in legal academia</i>	155
4.2.4. <i>Classification of composite procedures</i>	158
4.3. THE ORIGIN AND DEVELOPMENT OF COMPOSITE PROCEDURES	160
4.3.1. <i>Comitology</i>	162
4.3.2. <i>Agencies</i>	166
4.3.3. <i>Joint execution of EU budget, shared management of European funds</i>	170
4.4. COMPOSITE PROCEDURES IN EU LAW: ANALYSIS AND SOME EXAMPLES	173
4.4.1. <i>The logic of cooperation in the implementation of EU law and policy</i>	173
4.4.2. <i>Active substances and plant protection products (pesticides)</i>	176
4.4.3. <i>Genetically modified organisms</i>	182
4.4.4. <i>Pharmaceuticals for human use</i>	186
4.4.5. <i>Biocides</i>	192

4.4.6. Chemicals	195
4.4.7. Management of European funds	199
4.4.8. Protection of geographical indications and designations of origin	203
4.4.9. Ecolabels	206
4.4.10. Procedures in the area of freedom, security and justice. Comparison of fingerprints relating to asylum and other international protection procedures	208
4.4.11. Trade of endangered species of wild flora and fauna	211
4.5. CONCLUSIONS	213
Chapter 5.—Legal challenges triggered by composite procedures	215
5.1. PRELIMINARY REMARKS	215
5.2. THE RIGHT TO BE HEARD IN COMPOSITE PROCEDURES	217
5.2.1. <i>The right to be heard in the EU and in Member States</i>	217
5.2.2. <i>Evolution of the case law concerning the recovery of structural funds</i>	220
5.2.3. <i>Evolution of the case law of the CFI on the repayment of import duties</i>	223
5.2.4. <i>Case law on the listings of terrorist organisations</i>	230
5.2.5. <i>Remarks on the current state of affairs of case law on the right to be heard in composite procedures and rights-oriented approach</i>	235
5.3. THE OBLIGATION TO STATE REASONS	240
5.3.1. <i>The right to a reasoned decision as a citizen's right under EU law</i>	240
5.3.2. <i>The right to a reasoned decision in composite procedures</i>	244
5.4. THE RIGHT TO JUDICIAL REVIEW IN COMPOSITE PROCEDURES	251
5.4.1. <i>The right to judicial review as a fundamental right and a central element in the configuration of public administration</i>	251
5.4.2. <i>The rule of law in the European Union</i>	254
5.4.3. <i>The right to judicial review according to the Court of Justice</i>	262
A) Direct challenge: action for annulment	264
B) Indirect challenge: Preliminary ruling procedure	269
5.4.4. <i>Composite procedures and judicial review: identifying the lacunae</i>	273
A) First gap: determining the competent court	274
a) Vertical upwards procedures	274
b) Vertical downwards procedures	283
c) Horizontal procedures	290
B) Second gap: what acts can be reviewed?	295
a) Preparatory acts	297
b) Confirmatory acts	305
c) Transfer of information	307
C) Third gap: standing to sue	309
a) Different conditions of access to justice at the national and Union level	310
b) Uncertain definition of direct concern in the context of composite procedures	312
5.5. CONCLUSIONS	318

Chapter 6.—Proposals	321
6.1. INITIAL REMARKS	321
6.2. REGULATION OF COMPOSITE PROCEDURES IN A GENERAL ACT ON EU ADMINISTRATIVE PROCEDURES	323
6.2.1. <i>The General Act on EU Administrative Procedures: arguments in favour of a codification</i>	323
6.2.2. <i>The state of play of the process of codification</i>	329
6.2.3. <i>The inclusion of composite procedures in the General Act on EU Administrative Procedures</i>	332
6.2.4. <i>A proposal for the provisions on composite procedures in the General Act of EU Administrative Procedures</i>	339
6.3. INVERSE PRELIMINARY RULING PROCEDURE	350
6.3.1. <i>The preliminary ruling procedure and its functions</i>	350
6.3.2. <i>The judicial dialogue in the EU</i>	354
6.3.3. <i>A concrete proposal on the inverse preliminary ruling procedure</i>	357
6.4. CONCLUSIONS	360
 Chapter 7.—Conclusions	 363
 Bibliography	 373
CITED CASE LAW	405
LEGISLATION	419