

Paul Craig, *EU Administrative Law*, Oxford: Oxford University Press 2018, 3rd edition, ISBN 9780198831648, xcv + 836 pp.

Only six years have passed between the second and this third edition of Paul Craig's seminal book on *EU Administrative Law* – but what six years have they been! Many and truly crucial events have taken place. The author himself connects them with four of the major crises currently faced by the Union. The financial crisis has given rise to a new regulatory framework, as well as to the centralization of its administrative enforcement. The migration and refugee crisis has shown the ethical, political and bureaucratic limits of the European integration process. The constitutional crisis created by some illiberal governments has clearly revealed the role of EU institutions as guardians of the rule of law and fundamental rights *vis-à-vis* the Member States. As if all this were not enough, when the book was sent to the press, we ignored the question of whether the UK will actually leave the EU and how this withdrawal would take place, and even at the time of writing this review, there still are many Brexit-related uncertainties. On top of the norms, acts and judgements that channel all these processes, there are many secondary sources that attempt to clarify and critically assess them. All this explains the decision to publish a new edition of this book, which is, and will remain in the future, one of the fundamental works on this area of law.

The author has preserved the divide between the two parts of the book. Indeed, this structure is one of the distinct features differentiating it from other general accounts of European administrative law. The first part is entitled “Administration and law” and deals with the various forms of administrative enforcement of EU policies. After some introductory topics (Chapters 1 & 2), it focuses on the identification of the most important abstract types of organizational and procedural structures of EU administration: centralized management, both direct and indirect (Chapter 3), shared management through what other scholars call composite procedures (Chapter 4), the role of comitology in the making of secondary norms (Chapter 5), EU agencies (Chapter 6), the Open Method of Coordination (Chapter 7), and dialogue between social partners (Chapter 8). The outcome is a complete review of the different forms of administrative management of EU policies, from the perspective of both their legal framework and their policy implications.

The second part of the book is devoted to the study of “Law and administration”, which involves more than a mere play on words: these chapters address the legal standards and techniques of judicial review regarding the European administration. On the one hand, the book explores the foundations of judicial review and the judicial system's architecture (Chapters 9 & 10), along with the rules, principles and doctrines governing access to both administrative procedures and judicial review (Chapter 11), as well as due process rights of individuals and the general public (Chapters 12 & 13). On the other hand, this second part also deals with substantive review, particularly in relation to competences

(Chapter 14), the different standards of review that apply to questions of fact, law and discretion (Chapter 15), the implications of the Charter of fundamental rights of the European Union (Chapter 16), as well as the most significant legal principles of EU administrative law – equality, legitimate expectations, proportionality, and precaution (Chapters 17-21). This second part concludes with an analysis of remedies – interim relief, annulment and compensation – against administrative action of both the Union (Chapter 22) and its Member States (Chapter 23), as well as of non-judicial means of control (Chapter 24, on the European Ombudsman, is written by Alexandros Tsadiras).

There is always a choice underlying every methodological approach, and therefore there are necessarily both strengths and weaknesses. So does this way of sectioning EU administrative law for the purpose of theoretic discussion. As for the latter, it requires one of these two parts to tackle issues that may be equally relevant from either part's perspective. This can be seen in relation to the discussion on the constitutional foundations of EU administrative law. Background principles, such as the rule of law or institutional balance, are studied in the second part (Chapter 9). It is readily apparent that they have important consequences in the realm of judicial review of administrative action. Nevertheless, they are also significant concerning the design of organizational and procedural structures for the administrative management of EU policies. The placement of the discussion on principles thus renders the first dimension visible, while partially concealing the second. This can also be seen regarding the legal framework of EU administrative decision-making processes, whose examination is twofold: issues related to administrative structures, for instance, composite procedures for the shared administration of EU policies, are dealt with in the first part (Chapter 4), while those affecting individual due process rights, such as the rights to be heard or the duties of care and to give reasons, are explored in the second part (Chapter 12). Overall, the separation between these two sections provides an excessively rigid systematization.

Nevertheless, this division also carries advantages from other relevant perspectives. First, it appropriately reflects a modern understanding of administrative law – by not only focusing on how courts interpret it and implement it, but also being responsive to how it effectively operates outside of the courtroom. This approach is not at all new in Paul Craig's scholarship, as it results from the structure and contents of his handbook on UK administrative law,<sup>1</sup> where the analysis of the administrative system (Part 1) and of judicial review and remedies (Parts 2 & 3) is also separated. Likewise, this approach to content structure for academic purposes shows a certain stance on the ultimate aim of

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<sup>1</sup> P. Craig, *Administrative Law* (London: Sweet & Maxwell 2016, 8th edition).

administrative law, both national<sup>2</sup> and European,<sup>3</sup> according to which it basically has two main functions, namely limiting and promoting the efficacy of administrative action. The first one aims at ordering the administrative management of EU policies according to certain constitutional foundations, essentially connected with the rule of law and democracy. The second function is to ensure the effectiveness of EU law, as well as the efficacy of administrative action, which is a specific background principle of EU administrative law.<sup>4</sup> Assessing the extent to which European administrative law really fulfils this second function requires exploration of its operation beyond the courts.

A final methodological strength of the book needs to be highlighted. A theoretical reconstruction of EU administrative law has to be conducted through a twofold strategy. On the one hand, it is necessary to identify those requirements arising from its background principles,<sup>5</sup> as well as the impulses coming from the political foundations of the main administrative reforms.<sup>6</sup> On the other hand, an EU administrative law theory also needs to acknowledge the trends and processes emerging from its different sectoral regimes, especially in terms of their influence over administrative law structures.<sup>7</sup> Paul Craig's book aptly elaborates on these two complementary perspectives. This can be illustrated with the discussion of due process rights, especially of the duty of care and to a diligent and impartial examination. The top-down analysis is focused on the contents of Article 41 of the Charter and on the Court of Justice of the European Union's case law regarding the principle of good administration. The bottom-up approach, in turn, explores the impulses arising from the approach to these rights in two areas of law, such as antitrust law and State aids

<sup>2</sup> P. Craig, *Administrative Law* (London: Sweet & Maxwell 2016, 8th edition), p. 3; E. Schmidt-Assmann, *Das Allgemeine Verwaltungsrecht als Ordnungsidee* (Berlin: Springer 2006, 2nd edition), pp. 16-18.

<sup>3</sup> C. Harlow, G. della Cananea & P. Leino, 'Introduction: European administrative law – a thematic approach' in C. Harlow, P. Leino & G. della Cananea (eds.), *Research Handbook on EU Administrative Law* (Cheltenham: Edward Elgar 2017), p. 5; E. Schmidt-Assmann, 'Verfassungsprinzipien für den Europäischen Verwaltungsverbund' in W. Hoffmann-Riem, E. Schmidt-Assmann & A. Vosskuhle (eds.), *Grundlagen des Verwaltungsrechts*, vol. I (München: C.H. Beck 2006), p. 246.

<sup>4</sup> P. Craig, *EU Administrative Law* (Oxford: OUP 2018, 3rd edition), pp. 268-276.

<sup>5</sup> E. Schmidt-Assmann, 'Verfassungsprinzipien für den Europäischen Verwaltungsverbund' in W. Hoffmann-Riem, E. Schmidt-Assmann & A. Vosskuhle (eds.), *Grundlagen des Verwaltungsrechts*, vol. I (München: C.H. Beck 2006), pp. 241-305; P. Craig, *EU Administrative Law* (Oxford: OUP 2018, 3rd edition), pp. 263-276.

<sup>6</sup> P. Craig, *EU Administrative Law* (Oxford: OUP 2018, 3rd edition), pp. 36-55.

<sup>7</sup> E. Schmidt-Assmann, *Das Allgemeine Verwaltungsrecht als Ordnungsidee* (Berlin: Springer 2006, 2nd edition), pp. 8-10; J.P. Terhechte (ed.), *Verwaltungsrecht der Europäischen Union* (Baden-Baden: Nomos 2011); G. della Cananea & M. Conticelli (eds.), *I procedimenti amministrativi di 'adjudication' dell'Unione europea: principi generali e discipline settoriali* (Torino: Giappichelli 2017); H.C.H. Hofmann, G.C. Rowe & A.H. Türk (eds.), *Specialized Administrative Law of the European Union* (Oxford: OUP 2018).

law, that have been particularly important in view of the development of those rights.

In conclusion, this third edition of Paul Craig's book provides new reasons to be read for all those willing to get a complete and accurate view of the current state of the art in the field of EU administrative law, as well as for those interested in conducting research on any of its building blocks.

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