

Administrative Law and Administrative Procedure

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The course will consist in **five sessions (each of 2 hours)**, in which we will explore the following topics.

Students should download the materials indicated in the syllabus,
which will be read and discussed together in class.

The course will be taught in **English language**. The professor speaks fluently also Italian, French, German and Spanish.

1. General Introduction to the topic. The birth of European administrative law and the jurisprudence of the European Court of Justice

Two fundamental ECJ decisions will be studied and commented, which are still today the basis of European administrative law :

- a. The Judgment of the Court of 12 July 1957, *Dinecke Algera, Giacomo Cicconardi, Simone Couturaud, Ignazio Genuardi, Félicie Steichen v Common Assembly of the European Coal and Steel Community*, Joined Cases C-7/56 and C-3/57 to C-7/57 ECLI:EU:C:1957:7 and the opinion of Advocate general Lagange of 14 June 1957
The texts are available in all EU languages at :
<http://curia.europa.eu/juris/liste.jsf?pro=&lgrec=en&nat=or&oqp=&dates=&lg=&language=fr&jur=C%2CT%2CF&cit=none%252CC%252CCJ%252CR%252C2008E%252C%252C%252C%252C%252C%252C%252Ctrue%252Cfalse%252Cfalse&num=7%252F56&td=%3BALL&pcs=Oor&avg=&page=1&mat=or&jge=&for=&cid=1103251>
- b. The Judgment of the Court of 13 June 1958, *Meroni & Co., Industrie Metallurgiche, società in accomandita semplice v High Authority of the European Coal and Steel Community*, Case 10-56., ECLI:ECLI:EU:C:1958:8 and the opinion of Advocate general Roemer of 19 mars 1958
The texts are available in all EU languages at :
<http://curia.europa.eu/juris/liste.jsf?pro=&lgrec=en&nat=or&oqp=&dates=&lg=&language=en&jur=C%2CT%2CF&cit=none%252CC%252CCJ%252CR%252C2008E%252C%252C%252C%252C%252C%252C%252C%252C%252C%252C%252Ctrue%252Cfalse%252Cfalse&num=10%252F56&td=%3BALL&pcs=Oor&avg=&page=1&mat=or&jge=&for=&cid=807784>

2. EU centralised administration and EU shared administration.

The law of executive action of the EU institutions, bodies, offices and agencies and the law of implementation of EU policies by Member State's authorities.

- The *Oleificio Borelli* case will be examined in class as an example of the difficulties due to a lack of coordination of the legal frameworks for shared administration.
Judgment of the Court (Fifth Chamber) of 3 December 1992. *Oleificio Borelli SpA v Commission of the European Communities*. Action for the annulment of the Commission's decision refusing to grant aid from the EAGGF under Council Regulation (EEC) N° 355/77 - Withdrawal of approval by the Member State concerned - Claim for damages. Case C-97/91. , available at:
<http://curia.europa.eu/juris/liste.jsf?oqp=&for=&mat=or&lgrec=it&jge=&td=%3BALL&jur=C%2CT%2CF&num=C-97%252F91&page=1&dates=&pcs=Oor&lg=&pro=&nat=or&cit=none%252CC%252CCJ%252CR%252C2008E%252C%252C%252C%252C%252C%252C%252C%252C%252C%252C%252Ctrue%252Cfalse%252Cfalse&language=en&avg=&cid=5903874>
- The recent *Berlusconi* case will also be examined in class, as it deals with the division of jurisdiction between EU Courts and courts of the Member States that results from the involvement of national authorities in the course of a procedure, such as that at issue in the main proceedings, which leads to the adoption of an EU act.

Judgment of the Court (Grand Chamber) of 19 December 2018, Silvio Berlusconi and Finanziaria d'investimento Fininvest SpA (Fininvest) v Banca d'Italia and Istituto per la Vigilanza Sulle Assicurazioni (IVASS), available at:

<http://curia.europa.eu/juris/liste.jsf?language=en&num=C-219/17>

3. The principle of conferral and the limits to organisational and procedural autonomy of Member States.

According to Art. 5.1. TEU “*The limits of Union competences are governed by the principle of conferral*”. In the Treaties there is no legal basis for the adoption of EU Law on procedural and organisational matters. The problem of what “procedural and organisational autonomy” concretely is and why and in how far it really exists will be dealt with by analysing also the most relevant case law of the Court of Justice on the topic and especially:

- The *Rewe* case. Judgment of the Court of 16 December 1976. - Rewe-Zentralfinanz eG et Rewe-Zentral AG v Landwirtschaftskammer für das Saarland. Reference for a preliminary ruling: Bundesverwaltungsgericht, Germany. Case 33-76, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:61976CJ0033&from=EN>
- The *Lucchini* case. Judgment of the Court (Grand Chamber) of 18 July 2007. Ministero dell'Industria, del Commercio e dell'Artigianato v Lucchini SpA. Reference for a preliminary ruling: Consiglio di Stato - Italy. Case C-119/05, available at: <http://curia.europa.eu/juris/liste.jsf?oqp=&for=&mat=or&lgrec=it&jge=&td=%3BALL&jur=C%2CT%2CF&num=C-119%252F05&page=1&dates=&pcs=Oor&lg=&pro=&nat=or&cit=none%252CC%252CCJ%252CR%252C2008E%252C%252C%252C%252C%252C%252C%252C%252C%252Ctrue%252Cfalse%252Cfalse&language=en&avg=&cid=7421805>
- The *Pizzarotti* case. Judgment of the Court (Second Chamber), 10 July 2014. Impresa Pizzarotti & C. SpA v Comune di Bari and Others. Request for a preliminary ruling from the Consiglio di Stato. Case C-213/13, available at: <http://curia.europa.eu/juris/liste.jsf?oqp=&for=&mat=or&lgrec=it&jge=&td=%3BALL&jur=C%2CT%2CF&num=C-213%252F13&page=1&dates=&pcs=Oor&lg=&pro=&nat=or&cit=none%252CC%252CCJ%252CR%252C2008E%252C%252C%252C%252C%252C%252C%252C%252C%252Ctrue%252Cfalse%252Cfalse&language=en&avg=&cid=7421805>

4. The Right to good administration.

Article 41 of the Charter of fundamental rights and correlated fundamental rights: contents, sources and developments.

Students are advised to read Articles 41 and 51 of the Charter as well as the relevant official explanations (available at <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=OJ%3AC%3A2007%3A303%3ATOC> in all EU). As supplementary reading the following is recommended: The General Principles of EU Administrative Procedural Law – In - depth Analysis for the European Parliament’s Committee on legal affairs (available at http://www.europarl.europa.eu/RegData/etudes/IDAN/2015/519224/IPOL_IDA%282015%29519224_EN.pdf)

5. Towards a codification of EU administrative procedure?

The initiatives of the European Parliament and the ReNEUAL Model Rules on EU Administrative Procedure will be examined.

Students can find the texts of the EU Parliament’s European Parliament resolution of 9 June 2016 for an open, efficient and independent European Union administration <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2016-0279+0+DOC+XML+V0//EN> in all EU languages,

As well as of the ReNEUAL Model rules in English and Spanish at <http://www.reneual.eu/>. Other language versions exist, but only published in printed version.

Professor Diana-Urania Galetta’s cv and publications list is to be found at:

http://www.unimi.it/chiedove/cv/ENG/diana_galetta.pdf