# Table of Contents

Aci	knowledgements	V
Ta	ble of Cases	xiii
Ta	ble of Treaties, Agreements, etc	xxi
Ta	ble of EU Laws	xxvii
Int	roduction	1
	Administrative Procedure: A Functionalist Approach	1
	Definitions	2
	'Horizontal' and 'Vertical'	4
	Sharing the Space	5
	Some Parameters	6
1:	Definitions 'Horizontal' and 'Vertical' Sharing the Space Some Parameters  A Fragmented Framework In Search of EU Administration Member States and Enlargement National Procedural Autonomy Import–Export	9
	In Search of EU Administration	9
	Member States and Enlargement	13
	National Procedural Autonomy	13
	Import–Export	14
	Growing the Union	16
	The Commission in EU Administration	18
	Breaking the Mould	18
	Public Service and Bureaucratic Culture	20
	Disgrace and Reform	22
	The Secretariat General (SG)	24
	Outcome: A Managerial Administrative Style	24
	E-Governance: A Brave New World	25
	Committees as Network Structures	27
	Committees: Opaque or Transparent?	29
	Agencies and Networking	31
	Gaining Acceptance	32
	Gathering Momentum	34
	Conclusion	36
2:	Into the Office: Tenets, Values and Objectives	38
	Principles and Standards	39
	Rationality: Reasoned Decision-Making	39
	More 'Glue': Sincere Cooperation	40
	Subsidiarity Matters	42

### viii Table of Contents

45
46
48
51
53
55
56
58
60
62
64
65
68
68
71
73
74
75
79
80
82
84
84
85
87
89
91
93
94
96
97
101
102
103
104
106

### Table of Contents ix

	Social Committee	106
	Tending the Roots	108
	Registration and Representativeness	110
	Consultation – and Beyond?	112
	Enforceability?	113
	Judicial Abstention	114
	Lisbon – Towards Partnership?	116
	Conclusion	117
5:	Transparency: Building Administrative Procedures	119
	Transparency or Openness?	119
	Market Transparency	119
	Freedom of Information – A Political Right	121
	The Codes of Conduct: Administrative Procedures	123
	Classification, Secrecy and the 'Summertime Coup'	126
	The Codes of Conduct: Administrative Procedures Classification, Secrecy and the 'Summertime Coup' Regulation: Open Government or Official Secrecy? Law-Making: An Openness Principle Openness Trumped The EU and National Information Laws The Statutory Procedures Ombudsmen for Openness	127
	Law-Making: An Openness Principle	128
	Openness Trumped	131
	The EU and National Information Laws	133
	The Statutory Procedures	134
	Ombudsmen for Openness	135
	Towards Reform?	139
	Conclusion	140
6:	The Pathways Model and Steering: Public Procurement	142
	Coordinating National Procedures	144
	Rationales in Con'ext	144
	Waves of Legislation	146
	Procedures, Procedures	148
	Judicial Multitasking	149
	Transparency and Scope	150
	Social and Environmental Objectives	152
	Step By Step	154
	Review and Remedy	158
	Recodification	161
	Process: Assessment	162
	Scope and Proportionality	164
	Changed Pathways	165
	Governance	167
	Conclusion	168

## x Table of Contents

7:	Procedural Development, Institutional Tensions: Commission	
	Infringement Process	170
	Basic Constitutional Parameters: Four Corners	170
	Policy Dynamics: Institutional Tensions	172
	Commission Fire-Watching	173
	Challenge and Opportunity	173
	Expanded Toolkit	175
	Deep Roots: Infringement Procedure	179
	An Elongated Decision-Making Chain	179
	Elaborating Priorities	181
	Frontloading: 'EU Pilot'	182
	Competing Conceptions	184
	Judicial Policy	184
	Access to Documents	185
	Citizens' Advocate	187
	The EP's Challenge	190
	Sanctions Procedure	191
	Commission and Court	191
	Snakes and Ladders	193
	Judicial Policy Access to Documents Citizens' Advocate The EP's Challenge Sanctions Procedure Commission and Court Snakes and Ladders Conclusion	195
8:	Modernisation, Cooperation, Enforcement: Competition	196
	Modernisation	198
	Continuity	198
	And Change	199
	'Economic Turn'	201
	Interplay: Medernisation and the CJEU	202
	Cooperation	205
	Network Design	205
	Maturation	206
	Flanking Developments	208
	Good Governance Principles	209
	Enforcement	210
	Stages, Tracks and Steps	211
	In-House Check: The Hearing Officer Sanctioning Toolkit: Guidelines	214 216
	Soft Law and Fundamental Rights	216
	Conclusion	220
	Conclusion	440

9:	Programming, Partnership and Audit: Cohesion Policy	221
	Programming: Policy and Principles	224
	Rise and Rise	224
	Administrative Vehicle	226
	Retrenchment: More Union Strategy	228
	Micro and Macro Conditionality	229
	Article of Faith: Partnership	231
	Rhetoric and Reality	232
	Partnership Agreements	234
	Code of Conduct	235
	Management and Financial Supervision: Audit	236
	Decentralised Management: Supervisory Growth	236
	Targeting?	238
	Blight on the System	239
	In Search of Results	241
	Targeting? Blight on the System In Search of Results Conclusion	242
10:	Agencies, Networks and Accountability: The Case of Europol	244
	Early Days and Evolution	245
	Mission Creep: The Europol Convention	246
	The Convention Model of Rule-Making	248
	The Europol Decision: A Substantive Transformation	250
	Loyal Cooperation	251
	Europol as Rule-Maker	252
	Good Governance	253
	Europol and Data Protection	254
	Supervision and Control: The Joint Supervisory Body	257
	Re-Ordering the blocks: The Europol Regulation	258
	Management and Administration	259
	A Robust Data Protection Regime?	263
	Democratic Accountability	265
	Conclusion	266
11:	Integration and Crisis: Financial Services Regulation	268
	Elite Conception	269
	The Four-Level Model	269
	Better Regulation	272
	External Dimension	273
	Regulatory Network	274
	Before the Fall: Evaluation	276
	Agencification: Fourth Wave	277

### xii Table of Contents

Market Turmoil: Re-Evaluation and Reform	277
Formal Network	279
ESA Template	281
Standards and Guidelines	282
Decisions, Decisions	284
Going On	286
New Frontier	287
Architectural Issues	288
Inside the SSM: Tasks, Powers and Division of Labour	290
Inside the Bank: Separation and Autonomy	291
Variable Geometry	292
Due Process and Accountability	294
Conclusion	295
Conclusion  12: Procedural Trading: An International Market    Aarhus: Ensconcing Environmental Democracy    First Steps: Walking Alone    Working with Friends    The Aarhus Model    Implementation and Transposition    Aarhus and Enforceability	297
12: Procedural Trading: An International Market	
Aarhus: Ensconcing Environmental Democracy	299
First Steps: Walking Alone	299 302
Working with Friends The Aarhus Model	302
Implementation and Transposition	306
Aarhus and Enforceability	307
	307
The Aarhus Convention Compliance Committee	
Creative Courts: UN Sanctions and Due Process	311
Courts and Due Process – Again	311 312
Smart Sanctions and Asset Freezing Judicial Intervention	314
Intensity of Review	314
Due Process Pights	316
Conflicting Obligations: A Houdini Approach	319
Conclusion	321
Conclusion	321
13: Conclusion: A Regulatory Bureaucracy	322
The 'Three Cs' of EU Administration	323
Communication and E-Governance	324
Administration Under Law	325
Clashing Values	328
Evolving Structures, Changing Governance Modes	329
Enlargement: Problem or Opportunity?	330
Procedural Codification?	331
A Regulatory Bureaucracy	335
Index	341
	011