Diana-Urania Galetta, “Procedural Autonomy of EU Member States : Paradise Lost ?”, Berlin Heidelberg (Springer: 2010), 145 pages.

This short book on the notion of ‘procedural autonomy’ of EU Member States is the English version of the Italian original published in 2009. Addressing a topic which is highly relevant in view of the EU’s specific structure of the separation of powers between the EU and the Member States, it is a welcome addition to the legal debate in the EU.

The idea of a concept of ‘procedural autonomy’ is linked to an understanding of the EU characterized by executive federalism. Under this concept, legislation on the European level should generally be implemented by the Member States and their regional bodies, with the national law being relevant for the definition of the means and institutions used for implementation of EU law within each individual Member State. This book’s analysis of the notion of procedural autonomy is therefore a contribution to a central question for the definition of the EU legal system: How can, on one hand, the rule of law in the EU be ensured requiring *inter alia* its uniform application in various Member States, while the EU, on the other hand, lacks the administrative capacities and often the competencies to implement EU law itself? Given that the EU must rely on various national enforcement mechanisms both administrative and judicial as well as, in many cases, private, the notion of ‘procedural’ in this book is broadly defined as containing all legal instruments capable of sanctioning the observance of EU law.

Whether procedural autonomy is a general principle of EU law in its own right, or merely a possible result of a wide understanding of the principle of subsidiarity is a debate the author takes on with her finely developed analysis of the cases and consequences thereof. She shows that the ECJ has never recognized procedural autonomy as a general principle in its own right. Instead, since *Rewe,* it has been seen as a guiding concept defining the obligations of Member State institutions to apply national law where no specific EU law exists. Member States are obliged essentially to fill the gaps in EU law – of which there are many – not least because EU competencies for creating implementing measures for Union legal acts are only exist where there is a need for ‘uniform conditions’ of implementation (Article 291 (2) TFEU). Not surprisingly, as the author shows, this situation results in a pragmatic approach by the case law which tends to be more oriented towards ensuring uniform interpretation and application of EU law by the Member States, than seeking to safeguard the intricate arrangements of each and every of the 27 national legal systems. In order to flesh this out, the case law has developed the duo of the principle of equivalence and - more importantly in practice – principle of effectiveness. The case law developing this approach has grown over time with the expanding range of EU obligations and along with the specificities of the scenarios presenting themselves to the ECJ in individual cases and policies.

The main thesis in the book is that in order to ensure the *effet utile* of the direct effect of EU substantive law, procedural law of the Member States has been ‘functionalised.’ The debate about the ongoing functionalisation of procedural law of the Member States to accommodate EU law obligations has been conducted for some time now under the heading of ‘Europeanisation’ of national public law and policy. This Europeanisation has in essence been a process of interpreting Member State public law in

compliance with to ensure the uniform application of EU law. The extent of such functionalisation becomes visible in the situations underlying the *Rheinmühlen* and *Cartesio* line of cases. The limits to such functionalisation are, as the author shows, largely set by general principles of law, for example the principle of legal certainty. EU law has, however occasionally, gone a step further requiring in certain policy areas the creation of specific procedural and institutional organizational structures. This is most visible in, for example, the harmonisation of public procurement, or, in EU law obliging Member States to establish and maintain independent agencies such as independent central banks and regulatory agencies for energy, to name just a few. This book's analysis is however not aimed at discussing the various implications and the extent of procedural autonomy in certain policy areas. Instead it probes to which degree the notion of procedural autonomy might have any independent meaning as a general concept in EU law.

One of the great achievements of this book is that it shows how an in-depth research into these questions can avoid the pitfalls of overly terminology-based thinking which clouds the mind with pre-defined ideological stances. The author elegantly manages to overcome dangers of an overly dogmatic understanding of either position by giving the necessary attention to the cases whilst at the same time keeping the greater picture in view. Her thesis of the functionalisation of procedural law is thus an important contribution also to the wider debate of whether the procedural provisions in EU (administrative) law are adequate for the vast task of developing a well functioning and uniformly applied EU whilst maintaining the Member States as key elements of exercise of public powers in the EU.