



ARTICLE

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Cassation Appeal

On Wednesday the 10th of April 2013, the Secretary of State for the European Union, Iñigo Méndez de Vigo, accompanied by Mr. Ignacio Samper, director for Spain in the European Parliament and Mr. Francisco Fonseca, director of the Commission in Spain, presented the work led by José Eugenio Soriano, Of Counsel of the law firm Lupicinio International Law Firm, and on which 29 authors, Magistrates, lawyers of the State Council and the State Bar, and Professors collaborated. The event filled the conference room of the headquarters of the EU institutions in Madrid to capacity.

The event began with a speech given by the Secretary of State who, amongst other matters, pointed out that the EU is lacking in Constitution from above, and in Administrative Procedure from below.

As a consequence, citizens face a problematic situation regarding the actions of Institutional powers and it is necessary to increase legal security. It is here that Administrative Procedure can offer guarantees, measures of power, responsibility and control over administrative actions of the public powers.

The European Parliament and the European Ombudsman strongly support the draft EU legislation, as was recently indicated at the Conference in the Law Faculty on the 20th March 2013 in Madrid by defender Nikoforos Diamandouros. Luigi Berlinguer also took this stance (in the Report with Recommendations to the Commission on a Law of Administrative Procedure of the European Union Committee on Legal Affairs, 12th November 2012), and will also make his views known soon in Madrid, according to what was announced in the Faculty of Law at the Complutense University.

Normally this would mean a European Regulation with the fundamental principles, guidance and potentially some aspects of detail on what such legislation could offer the EU citizens and businesses (and all related to the EU Institutions in general).

A European Regulation containing the basic elements of a procedure would in the meantime imply a large institutional economy. In effect, European citizens would not have to patiently wait for the Court of Justice to finish establishing a procedural law (legitimate expectations, proportionality, precedent, responsibility, review of office...), following years of litigation and for a specific case, where it is sometimes very difficult to compare or prompt an applicable process of a general nature. In fact it so happens that, until now, the discovery of various procedural laws was the result of the jurisprudence of the Court of Justice, which on many occasions required further judgements until the Doctrine was definitively consolidated and clarified. Therefore it is imperative that in order to “make Europe”, the large and complicated discovery of each right of the administered party in its relation to the European Institutions is short-circuited. And, at the same time, a democratic Institution like the European Parliament could, in a transparent and open debate, achieve that the basic and elemental rules in European countries are shared, achieving unification via a European Regulation on Administrative Procedures, which the Court of Justice will ultimately use as its jurisprudence.

The book presented reflects, promotes and develops these ideas. Led by Professor at the Complutense University, José Eugenio Soriano, it was prepared by an esteemed group of professionals, Magistrates, Lawyers of the State Council, State lawyers and Professors, all

of whom have proven experience in EU matters.

The text, the first of its kind that tackles the matter exhaustively, deals with many of the issues raised today by the lack of a unified regulatory procedure that serves to control and allow citizens to place more trust in the Institutions - as well the companies, associations and all legal entities and personifications in general that are involved with European Law.

The reader of the book will find themselves with a detailed study on each piece of European procedure, and moreover they will be able to do so in conjunction with the proposed solutions based on Comparative Law and common sense (as renowned Professor of History of Law Paul Vinogradoff said, it is the basis of the Law).

Throughout its nearly 900 pages, the authors thus examine all institutions that make up this administrative procedure, forming a unique text that homogenizes the legitimate rights and interests of the 27 countries and that expands to conform to the map of the Union. This common legal culture must be created, the potential foundation of equal rights and

responsibilities amongst European citizens that will therefore allow their identification as such.

This work contributes decisively to this matter, which of course will be welcomed as an element of important reflection on the rule of law applied to EU Administration, the principles of equality, proportionality, subsidiarity, liability, damages, legitimate expectations and legal security as well as Oberbegriff (supraconcept), as in its dimension of past certainty and augur of future precaution, ever-necessary good administration and governance and today in a rather obligatory manner, particularly in the essential transparency of the financial sector in order to tackle - with solvency - any amendment to EU Administration and, finally, complete codification and regulation thereof.

The coordinator of the work ended his speech as he could not have done in any other way, congratulating the authors on their involvement and the Union Institutions for its good reception, while he invited the authors to culminate the project supported by law firms, EU experts and all those who wish to do their part in building a stronger Europe.