

Table of Contents

<i>List of Figures</i>	xiii
<i>Table of Cases</i>	xv
<i>Table of Legislation</i>	xxiii
<i>List of Abbreviations</i>	xxvii
Introduction	1
I. Setting the Scene: EU Agencies, Agencification, and the EU Administration	3
1 EU Agencies and the Agency Phenomenon	3
1.1 Definition	5
1.2 EU agencies	15
1.3 Agencification	45
1.4 The EU administration	46
2 Situating the EU Agencies in the EU Administration	47
2.1 Executive federalism in the EU	48
2.2 EU agencies under a functional and procedural perspective	50
2.3 Conclusion	51
II. In Search of an Agency Model: The Provisions in Agencies' Establishing Acts	52
1 Introduction	52
2 The EU's Sources of Legitimacy	53
2.1 The EU's democratic deficit	53
2.2 Legitimacy of the EU administration	61
3 The EU Agencies' Statutes	64
3.1 The Boards	65
3.2 The Directors	76
3.3 Work programmes and annual reports	81
3.4 External relations	86
3.5 Seat Agreement	93
3.6 The Common Approach's contribution to an agency model	97
4 Practice Following the Common Approach	98
4.1 Review of agencies' acts following the Common Approach	99
5 Conclusion	100
III. The Political Limits to Agencification	102
1 The Origins of Agencies	102
2 Explaining Agencification	106
2.1 The functional accounts of agencification	107
2.2 Non-functional accounts of agencification	109
2.3 Concluding remarks	113

3	Agencification and Its Effects	114
3.1	EU agencies: Trojan horses, part of executive centre formation, or part of a multi-layered administration?	115
3.2	Concluding remarks	117
4	Identifying the Political Limits	118
4.1	The Council	119
4.2	The Commission	123
4.3	The European Parliament	126
4.4	The role of the Court of Justice	131
4.5	Concluding remarks	131
5	Conclusion on the Political Limits	132
IV.	The Legal Limits to Agencification	134
1	Limits Flowing from the Principle of Conferred Powers	136
1.1	The competence to establish a new body within the EU's institutional architecture	136
1.2	The choice of instrument	153
1.3	Conclusion	157
2	Limits Flowing from the Principle of Subsidiarity	157
2.1	The agency instrument under the subsidiarity principle	159
2.2	Individual tasks and powers of EU agencies under the subsidiarity principle	162
2.3	Conclusion	164
3	Limits Flowing from the Principle of Proportionality	164
3.1	EU agencies' tasks and powers under the principle of proportionality	166
3.2	EU agencies' establishment under the principle of proportionality	167
3.3	The proportionality of agencification in legislative practice	171
3.4	Conclusion	173
4	Concluding Remarks: Limits Flowing from the General Principles of EU Law	174
5	The <i>Meroni</i> Jurisprudence and the Notion of Delegation	175
5.1	The original <i>Meroni</i> ruling	176
5.2	Contemporary reception of the <i>Meroni</i> ruling	183
5.3	Present-day reception and valuation of the <i>Meroni</i> ruling	185
5.4	EU agencies under <i>Meroni</i> : Does it make sense?	192
5.5	<i>Meroni</i> in the subsequent case law of the Court	212
5.6	Assessment of <i>Meroni</i> and deducing a doctrine	225
5.7	Delegating powers in the EU legal order	230
5.8	EU agencies and an EU <i>Meroni</i> doctrine	242
5.9	Conclusion	248
6	A Prelude to the Institutional Balance: <i>Romano</i>	249
6.1	The <i>Romano</i> case	250
6.2	Conclusion	258
7	Limits Flowing from the Institutional Balance	258
7.1	Separation of powers	259
7.2	The EU's institutional balance	268
7.3	Conclusion	296
8	Conclusion on the Legal Limits	297

V. Controlling Agencification	299
1 Agencification in the United States of America	299
1.1 Designing the executive sphere	300
1.2 Designing independent agencies vs. the President's control over the executive	300
1.3 Control over which powers?	301
1.4 Interpretation of agencies' statutory mandates	302
1.5 US agencies' constitutionality	304
2 Agencification in the Federal Republic of Germany	306
2.1 German agencies	307
2.2 The relation between <i>Bund</i> and <i>Länder</i>	307
2.3 German agencies and the separation of powers	310
2.4 Deference to agencies' decisions	313
3 Agencification in the US and Germany	315
4 Controlling EU Agencies	316
4.1 Controlling agencification	316
4.2 Controlling individual agencies	317
5 Concluding Remarks on the Political Control of Agencification	326
6 Judicial Scrutiny of EU Agencies' Acts	327
6.1 Passive <i>locus standi</i> of EU agencies	328
6.2 Active <i>locus standi</i> of EU agencies	362
6.3 Conclusion	367
VI. Conclusions and Proposal	369
1 The EU Agency Instrument—Conclusions	369
2 The EU Agency Instrument—Proposal	372
2.1 Proposals in the IGCs and the Convention	373
2.2 A legal basis in the Treaties	376
<i>Selected Bibliography</i>	383
<i>Index</i>	387