

Contents

v

Abbreviations

xii

CHAPTER 1	Administrative decision-making and legal quality: an introduction	
	K.J. de Graaf, J.H. Jans, A.T. Marseille & J. de Ridder	
1	Introduction	3
2	Legal quality	4
3	Outline of the book	7
CHAPTER 2	Inquiries into the quality of administrative decision-making	
	M. Herweijer	
1	Introduction	13
2	Four aspects of decision-making: four evaluation criteria	14
2.1	The effectiveness of administrative decisions	15
2.2	The efficiency of public expenditure	16
2.3	Legitimacy of procedures and arguments	17
2.4	The lawfulness of the exercise of legal powers	18
2.5	Conclusion	19
3	Trade-offs between the four evaluation criteria	20
3.1	Is the integration of the four perspectives a bridge too far?	20
3.2	Trade-off or win-win?	23
3.3	Should administrative authorities be selective in their efforts?	24
4	Discussion	26
CHAPTER 3	Factors for legal quality of administrative decision-making	
	J. de Ridder	
1	Introduction: rules are tools?	31
2	The regulation of administrative behaviour	33
3	Bureaucracy: a judicial culture	37
4	Individual public servants: attitudes and professions	40
5	The organization of administrative justice	43
5.1	Division of labour and task specialization	43
5.2	Outsourcing	44
5.3	Hierarchy	45
6	The environment of administrative decision-making	46
6.1	Technical environment	46
6.2	Political environment	46
6.3	Society at large	47
7	Concluding remarks	48

CHAPTER 4	Legal factors of legal quality H.E. Bröring & A. Tollenaar	
1	Introduction	53
2	Administrative relationship and core concepts	55
2.1	Narrowing down the administrative relationship: subjectivization	55
2.2	Blurring of the boundary between the domains of public and private law	56
3	Standards and legal concepts	57
3.1	Developments in legislation	58
3.2	Standardization by administrative authorities: policy rules and 'pseudo policy rules'	59
3.3	Standardization by the target group: interactive standardization and self-regulation	60
3.4	Growth of punitive administrative law	61
3.5	Influence of European law (internationalization)	62
4	Monitoring	62
4.1	From supervision to legal protection and back again	62
4.2	Legal protection, supervision and legal quality	63
5	Summary and conclusions	65
CHAPTER 5	How can mediation be implemented in the current administrative decision-making process? H.D. Tolsma	
1	Introduction	69
2	Compulsory mediation?	70
3	Legal duty to strive toward consensus	72
4	Negotiating within the system of special purpose powers	76
5	Conclusion	78
CHAPTER 6	Review of final decisions in the Netherlands, Germany and Europe K.J. de Graaf & A.T. Marseille	
1	Introduction	83
2	The dilemma: legal certainty versus lawfulness	83
2.1	Introduction	83
2.2	Relevant arguments	85
2.3	Conclusion	87
3	The Netherlands	88
3.1	The Dutch <i>Raad van State</i>	89
3.2	The Dutch <i>Centrale Raad van Beroep</i>	90

3.3	Conclusion	91
4	Germany	92
5	Influence of European law	94
6	Conclusion	98
CHAPTER 7	The consequential effect of European law in respect of the requirement of due care J.H. Jans	
1	Introduction	101
2	Duty to investigate conformity under European law of proposed decisions	102
3	Duty to investigate compatibility of the national legislative framework with European law	106
4	Obligations to consult	107
5	Conclusions	108
CHAPTER 8	Quality and administration of the Dutch social security system: an impression F.M. Noordam	
1	Introduction	113
2	External assessors	114
2.1	The court	114
2.2	The National ombudsman	115
2.3	The Netherlands Court of Audit	117
2.4	Supervisory bodies	117
2.5	Parliament	119
2.6	Third party assessors	120
2.7	Jurisprudence	121
3	Assessment criteria	122
4	Administrative bodies and quality	123
4.1	Introduction	123
4.2	A broad concept of quality	124
4.3	The organization of quality	125
4.4	Learning and improving	127
5	Concluding remarks	128
CHAPTER 9	Quality in Dutch asylum law: from 'strict but fair', to 'fast but good'? H.B. Winter & K.F. Bolt	
1	Introduction	133
2	Legal factors: changes in the asylum system	134

2.1	Fast but good	134
2.2	Notification of intent as opposed to objection procedure	135
2.3	'Decisions with multiple consequences' and 'two-step residence permits'	137
2.4	Appeal to a higher court	138
3	Non-legal factors determining legal quality	138
3.1	Introduction	138
3.2	The structure of the decision-making process: accelerated procedures at the application centres	138
3.3	Quality and size of implementation system	140
3.4	Quality and the number of applications	141
3.5	Speed and the number of applications	141
3.6	Quality policy	142
4	Decision-making in practice	142
4.1	Number of applications	142
4.2	The percentage of application centre (AC) procedures	143
4.3	The number of positive decisions	144
4.4	Complaints and the duration of the decision-making process	145
4.5	Appeals	146
5	Evaluation of the <i>Vreemdelingenwet 2000</i>	147
6	Concluding remarks	148

CHAPTER 10 **Public administration: 'At your service!'**
L.J.A. Damen

1	Introduction	153
2	The burgomaster without a permit	153
2.1	The story	153
2.2	The legal context	154
2.3	The problem	155
2.4	The citizen's own responsibility or a government that serves the public?	156
3	Points of departure for a service-oriented administration	157
3.1	Introduction	157
3.2	Active and adequate information provision	159
3.3	A helping hand	160
3.4	Fair play and giving citizens a voice	161
3.5	Meticulous preparation	162
3.6	Most favourable alternative, least painful solution	163
3.7	Punctual decision-making	164
4	Legal quality assurance	164
4.1	What will it cost, this service-oriented public administration?	165
4.2	Efficiency	166
5	Conclusion	167

CHAPTER II	What about the quality of decision-making? G.H.M. Tromp	
1	Quality and confidence	171
2	The <i>Schaphalsterzijl</i> case: the background	173
3	The prelude to demolition .	173
4	From demolition to renovation.	176
5	Insufficient information on underground pumping stations	180
6	Ensnared in conflicting interests?	183
7	The courts loom	186
8	Final words	187
	<i>Bibliography</i>	192
	<i>Authors</i>	208