

INTÉGRAL DU COURS DE DROIT ADMINISTRATIF (CM+TD) AVEC M. AKANDJI-KOMBÉ ET
MME PERRON :

L2 SEMESTRE 2 (JANVIER 2022-MAI 2022) UNIVERSITÉ PARIS 1 PANTHÉON-SORBONNE :



Dura lex, Sed lex

Séance 1, du Lundi 24 Janvier 2022, TD, 17h-18h30 :

Question préjudicielle : questions qui se posent entre juges administratifs pour savoir comment interpréter le droit de l'union européenne :

- Service public
- Police administrative
- Contrats administratifs

CORRECTION DU PARTIEL DU S1 : COMMENTAIRE D'ARRÊT : ARRÊT DU 10 DÉCEMBRE 2021,
NUMÉRO 440458 :

Une femme s'est vue obligée par le directeur spécialisée des finances publiques de remettre son panneau d'affichage syndical et les clés du local syndical du service. Dans le cadre de ses congés, on lui dit qu'elle n'a pas le droit de revenir dans le local syndical. L'administration considère que lorsqu'elle part en congé, elle n'a pas le droit de revenir sur le local syndical qui se trouve sur le lieu de travail. La décision date du 1^{er} Août 2017, date à laquelle le directeur du service prends la décision. La requérante attaque cette décision devant le tribunal administratif de Paris. Elle se pourvoi en appel auprès de la cour administrative d'appel de Paris qui rejette l'appel, elle rends un appel le 5 février 2020, et la requérante se pourvoi en cassation ; arrêt rendu par le conseil d'état. Le tribunal administratif juge la demande irrecevable (pour être recevable, il faut que les conditions soient réunies, le recours doit rentrer dans ces critères pour être analysé. Pour que le recours soit recevable, il faut que la décision attaquée fasse grief, c'est-à-dire qu'elle modifie la situation juridique de la personne)

Il est d'abord considéré que cette décision ne fait pas grief, donc irrecevable. Puis interviendra le conseil d'état. La requérante soulève comme moyen le droit syndical. Il y'a une atteinte au droit de la liberté syndicale, donc la décision fait grief. L'administration de son côté, affirme que les mesures d'ordres intérieures ne font pas grief et sont insusceptibles de recours.

La décision du directeur était susceptible de recours, ou insusceptible de recours ? Une décision litigieuse est-elle une mesure d'ordre intérieur ou un acte susceptible de recours ?

Pour qualifier la décision, le conseil d'état apprécie ses effets sur la personne. Il constate que les faits portent atteinte à la liberté syndicale, qui est au nombre des droit fondamentaux. Le conseil d'état considère que c'est un acte susceptible de recours. Il annule l'arrêt de la cour administrative d'appel de Paris du 5 février 2020, le conseil d'état renvoi devant la même juridictions avec d'autres magistrats qui vont statuer. Il faut regarder si le recours est bien fondé

Les 3 administrations où l'on retrouve le plus de mesures d'ordre intérieur, sont les administrations pénitentiaires, l'armée et l'école.

Le préambule de la constitution de 1946 fait référence aux droits fondamentaux ; liberté syndicale, droits sociaux et économique.

**I. LA DÉCISION LITIGIEUSE CONSIDÉRÉE COMME UNE MESURE D'ORDRE
INTÉRIEUR PAR L'ADMINISTRATION :**

Rgulation March Droit Administratif

**Hugh Beale, Bénédicte Fauvarque-
Cosson, Jacobien Rutgers, Denis
Tallon, Stefan Vogenauer**



Regulation March Droit Administratif:

The Oxford Handbook of Comparative Administrative Law Peter Cane, Herwig C H Hofmann, Eric C Ip, Peter L Lindseth, 2020-12-17 The comparative study of administrative law has a long history dating back more than 200 years It has enjoyed a renaissance in the past 15 years or so and now sits alongside fields such as comparative constitutional law and global administrative law as a well established area of scholarly research This book is the first to provide a broad and systematic view of the subject both in terms of the topics covered and the legal traditions surveyed In its various parts it surveys the historical beginnings of comparative administrative law scholarship discusses important methodological issues examines the relationship between administrative law and regime type analyses basic concepts such as administrative power and accountability and deals with the creation functions and control of administrative power and values of administration The final part looks to the future of this young sub discipline In this volume distinguished experts and leaders in the field discuss a wide range of issues in administrative law from a comparative perspective Administrative law is concerned with the conferral nature exercise and legal control of administrative or executive governmental power It has close links with other areas of public law notably constitutional law and international law It is of great interest and importance not only to lawyers but also to students of politics government and public policy Studying public law comparatively helps to identify both similarities and differences between the way government power and its control is managed in different countries and legal traditions

The Law of Territorial Waters and Maritime Jurisdiction Philip Caryl Jessup, 1927

EU Soft Law in the Member States Mariolina Eliantonio, Emilia Korkea-aho, Oana Stefan, 2021-03-25 This volume analyses for the first time in European studies the impact that non legally binding material otherwise known as soft law has on national courts and administration The study is founded on empirical work undertaken by the European Network of Soft Law Research SoLaR across ten EU Member States in competition policy financial regulation environmental protection and social policy The book demonstrates that soft law is taken into consideration at the national level and it clarifies the extent to which soft law can have legal and practical effects for individuals and national authorities The national case studies highlight the points of convergence or divergence in the way in which judges and administrators approach soft law while reflecting on the reasons for and consequences of various national practices A series of horizontal studies connect this research to the rich literature on new modes of governance by revisiting traditional theories on soft law and by reflecting on the potential of such instruments to undermine or to foster rule of law values

Law And Technology In The Pacific Community Philip S.C. Lewis, 2019-03-11 Most would agree that business and trade are now carried out in an international environment but it is much less widely recognized that the practice of the law of business and technology is also becoming internationalized Indeed in many ways we seem to be rapidly moving toward a world legal order that may parallel the world economic order In th

The Internationalization of Government Procurement Regulation Aris Georgopoulos, Bernard M.

Hoekman, Petros C. Mavroidis, 2017 This book examines how international norms for government procurement are reflected in purchasing practices at the national level and whether there is convergence in policies and approaches across countries

International Encyclopedia of Comparative Law Mauro Cappelletti, 1987 *The Politics of Telecommunications*

Mark Thatcher, 1999 This book confronts some of the most important questions related to liberalization regulation and the role of the nation state in an increasingly international economy In the face of powerful transitional pressures for change to what extent are states able to maintain stable institutional frameworks Do different domestic structures generate dissimilar patterns of policy making and economic performance How important are past institutional choices to subsequent reform The author addresses these questions through a study of the transformations of a strategic economic sector telecommunications in Britain and France over the past three decades It analyses the theoretical strengths and weaknesses of various models of public policy formation and the role and reform of national institutions and the continuing role of the nation state

European Yearbook 1996 J. -P Chauvet, 1998-12-01 The European Yearbook promotes the scientific study of nineteen European supranational organisations including the Organisation for Economic Co operation and Development OECD Each volume contains a detailed survey of the history structure and yearly activities of each organisation and an up to date chart providing a clear overview of the member states of each organisation In addition a number of articles on topics of general interest are included in each volume A general index by subject and name and a cumulative index of all the articles which have appeared in the Yearbook are included in every volume and provide direct access to the Yearbook s subject matter Each volume contains a comprehensive bibliography covering the year s relevant publications This is an indispensable work of reference for anyone dealing with the European institutions *The Law Magazine*, 1836 *Journal Officiel* League of Nations, 1925 Included are the Minutes or Proc s verbal of the Council from its first meeting Paris January 16 1920 to the session the budget for the 3d financial period 1921 in 1920 no 7 1921 no 9 1923 no 1 of each year statements of the Present situations as regards international engagements registered with the Secretariat Saar Basin periodical and other reports and papers reports on the financial reconstruction of Austria and of Hungary and many other reports and papers *Research Handbook on Unilateral and Extraterritorial Sanctions* Beaucillon, Charlotte, 2021-08-27 Providing a unique analytical framework to capture a diverse fragmented and highly evolving practice the Research Handbook on Unilateral and Extraterritorial Sanctions is the key original reference work covering how sanctions have indisputably become central instruments of foreign policy This discerning Research Handbook combines a series of case studies and cross cutting analyses It reflects the levers and evolution of international law and practice in the field as well as covering important topics over multiple disciplines particularly in international law and international relations Featuring diverse contributions from a selection of esteemed scholars the Research Handbook s chapters provide an unprecedented analysis of the evolution of diplomatic legal and business practices and tackle topical legal issues arising from unilateral and extraterritorial sanctions

Offering a unique panorama of contemporary practice this 360 degree study will be of interest to legal academics and their students as well as practitioners in both the public and private sectors Legitimacy and Effectiveness of ESMA's Soft Law van Rijsbergen, Marloes, 2021-10-19 This timely book explores pertinent questions around the legitimacy and effectiveness of EU agencies soft law with a particular focus on the European Securities and Markets Authority ESMA It examines the variety of ESMA s existing and newly granted soft law making powers which were intended to deal with the lack of effectiveness of its predecessor but are now called into question due to the hard effect of these soft laws Regulating Reproduction Melanie Latham, 2002 *Regulating Reproduction* examines the genesis of reproductive rights in Britain and France over the course of the 20th Century Melanie Latham concentrates on the role played by the various interest groups involved in the area of reproduction namely medical professionals religious groups and feminists using the Policy Network Theory on interest group behavior Latham combines legal analysis with political analysis and offers a cross cultural perspective **The Law Magazine and Review** ,1836 *The Law Magazine, Or, Quarterly Review of Jurisprudence* ,1835 *Administrative Regulation Beyond the Non-Delegation Doctrine* Marta Simoncini, 2018-06-28 The importance of administration in the EU has been growing progressively together with the development of EU competences and tasks in the internal market From the original model of a Community leaving enforcement with the Member States the EU has become a complex legal order where administrative tasks are spread among different actors including EU institutions EU agencies and national administrations Within this complex administrative law landscape agencies and their powers have been essentially upgraded This volume asks whether any such upgrade is compatible with EU law and its principles Exploring both the case law of the CJEU and the regulation relating to EU agencies the volume asks a crucial question about the legitimacy of the ever increasing role of agencies in the enforcement of EU law The Oxford Handbook of International Organizations Jacob Katz Cogan, Ian Hurd, Ian Johnstone, 2016-11-24 Virtually every important question of public policy today involves an international organization From trade to intellectual property to health policy and beyond governments interact with international organizations in almost everything they do Increasingly individual citizens are directly affected by the work of international organizations Aimed at academics students practitioners and lawyers this book gives a comprehensive overview of the world of international organizations today It emphasizes both the practical aspects of their organization and operation and the conceptual issues that arise at the junctures between nation states and international authority and between law and politics While the focus is on inter governmental organizations the book also encompasses non governmental organizations and public policy networks With essays by the leading scholars and practitioners the book first considers the main international organizations and the kinds of problems they address This includes chapters on the organizations that relate to trade humanitarian aid peace operations and more as well as chapters on the history of international organizations The book then looks at the constituent parts and internal functioning of international organizations This addresses the internal management

of the organization and includes chapters on the distribution of decision making power within the organizations the structure of their assemblies the role of Secretaries General and other heads budgets and finance and other elements of complex bureaucracies at the international level This book is essential reading for scholars practitioners and students alike

Contract Law Hugh Beale, Bénédicte Fauvarque-Cosson, Jacobien Rutgers, Denis Tallon, Stefan Vogenauer, 2010-11-09 This is the second edition of the widely acclaimed and successful casebook on Contract in the Ius Commune Series developed to be used throughout Europe and aimed at those who teach learn or practise law with a comparative or European perspective The book contains leading cases legislation and other materials from the legal traditions within Europe with a focus on English French and German law as the main representatives of those traditions The book contains the basic texts and contrasting cases as well as extracts from the various international restatements the Vienna Sales Convention the UNIDROIT Principles of International Commercial Contracts the Principles of European Contract Law the Draft Common Frame of Reference and so on Materials are chosen and ordered so as to foster comparative study and complemented with annotations and comparative overviews prepared by a multinational team The whole Casebook is in English The principal subjects covered in this book include General including the distinctions between Contract and Property Tort and Restitution Formation Validity Interpretation and Contents Remedies Supervening Events and Third Parties Please click on the link below to visit the series website www.casebooks.eu/contractLaw **The Evolution of EU Law** Paul Craig, Gráinne de Búrca, 2011-02-17 Previous edition 1st published in 1999 **EU Environmental Law, International Environmental Law, and Human Rights Law** Armelle Gouritin, 2016-01-12 In EU Environmental Law International Environmental Law and Human Rights Law The Case of Environmental Responsibility Armelle Gouritin offers a critical appraisal of EU environmental responsibility law and asserts a new rights based approach to international environmental law This book addresses environmental damage environmental harm the grounds for environmental responsibility and the exceptions to the responsibility principle A critical appraisal of EU Directives 2004/35 and 2008/99 is complemented by an analysis of the input of the European Court on Human Rights and international environmental law with a view to filling the gaps identified in the Directives Gouritin offers a full analysis of the potential and limits of the rights based approach applied to environmental responsibility

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