

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 pourvoit 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 pourvoit 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

A Gutmann



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

Expanding Edges of Today's Administrative Law Jeton Shasivari, Balázs Hohmann, 2021-08-20 This volume contains the scientific papers presented at the 4th International Conference Contemporary Challenges in Administrative Law from an Interdisciplinary Perspective that was held on 21 May 2021 online on Zoom The conference is organized every year by the Society of Juridical and Administrative Sciences together with the Faculty of Law of the Bucharest University of Economic Studies More information about the conference can be found on the official website www.alpaconference.ro The scientific studies included in this volume are grouped into three chapters Regulatory trends in terms of administrative law today International practices and policies National practices and policies This volume is aimed at practitioners researchers students and PhD candidates in juridical and administrative sciences who are interested in recent developments and prospects for development in the field of administrative law and public administration at international and national level

Contemporary French Administrative Law John Bell, François Lichère, 2022-03-03 Introduces the key features of French administrative law and institutions to English speaking readers

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 *French Administrative Law* Lionel Neville Brown, John Bell, Jean-Michel Galabert, 1998 As the bicentenary of the Conseil d'état approaches this new edition of the leading English language text provides a detailed profile of the Conseil and offers an up to date overview of le droit administratif which is regarded alongside the Code Napoléon as the most notable achievement of French legal science The Conseil d'état is taken as a model for many administrative systems in Europe and beyond and it continues to exercise a strong influence upon the emerging democracies of Eastern Europe and the Third World The eleven expanded appendices including statistics model pleadings and other illustrations provide an invaluable and accessible source of information on the French administrative courts their procedure and case load Throughout the approach is comparative with frequent references to developments in United Kingdom administrative law and in the EC institutions The book will be an invaluable guide to all students of French law and comparative public law Law of Administrative Organization of the EU Matthias Ruffert, 2020-12-25 With the transfer of ever more tasks and competences to the European level the EU's administration has become increasingly complex with agencification as the most visible sign of this differentiation This book offers a much needed analytical overview of the field with the aim of improving our understanding of administration at the European level and indeed of improving the administration itself **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 this Research Handbook on Global Administrative Law Sabino Cassese, 2016-02-27 This Handbook explores the main themes and topics of the emerging field of Global Administrative Law with contributions by leading scholars and experts from universities and organizations around the world The variety of the subjects addressed and the internationality of the Handbook's perspectives make for a truly global and multi dimensional view of the field The book first examines the growth of global administrations their interactions within global networks the emergence of a global administrative process and the development of the rule of law and democratic principles at a global level It goes on to illustrate the relationship between global law and other legal orders with particular attention to regional systems and national orders The final section devoted to the emergence of a global legal culture brings the book full circle by identifying the growth of a global epistemic

community The Research Handbook on Global Administrative Law provides a contemporary overview of the nascent field in detailed yet accessible terms making it a valuable book for university courses Academics and scholars with an interest in international law administrative law public law and comparative law will find value in this book as well as legal professionals involved with international and supranational organizations and national civil servants dealing with supranational organizations

State Administrative Law in Indonesia M. Zaenul Muttaqin, 2024-12-16 This book examines Indonesian laws regulating state administration in other words the relationship between the Indonesian government and its citizens This book uses public administration science to explain state administrative law It covers the historical evolution of state administrative law in Indonesia the political and legal acceptance of the Universal Declaration of Human Rights in Indonesia as well as the ratification of the 2020 Omnibus Law reforms It evaluates both the benefits and drawbacks of establishing laws through the Omnibus Law model and the challenges of its adoption by the Indonesian statutory system The book also examines state administrative law in other Southeast Asian countries to provide a more nuanced understanding of how human rights implementation occurs in the respective legal regimes Covering the legal reforms and changes to state administrative law in Indonesia this book will be of keen interest to scholars of state administrative law public administration and constitutional law

Comparative Law Casebook Stefan A. Riesenfeld, Walter J. Pakter, 2023-11-27 This casebook represents the extraordinary scholarship vision organizational and translation skill of the renowned international law scholar the late Professor Stefan Riesenfeld The cases and materials contained in this volume were developed by Professors Riesenfeld and Pakter for a seminar they taught on Comparative Law at Boalt Hall from 1986 1998 The cases have been updated for the purposes of this edition The volume consists of four parts covering the following topics Part 4 Good Faith Purchases The print edition is available as a set of four volumes 9781571052209

Alternative Visions of the International Law on Foreign Investment C. L. Lim, 2016-03-03 These essays pay tribute to Muthucumaraswamy Sornarajah's illustrious career and explore alternative visions of international investment law and arbitration

The EU's Conceptualisation of the Rule of Law in its External Relations Lisa Louwerse, 2023-09-04 This book explores the question of how the EU understands the rule of law in its external relations with a particular focus on development cooperation and enlargement Although the EU's commitment to the rule of law is strong the relevant concept remains nebulous On the basis of a detailed analysis of two key EU external policy areas the main argument advanced is that the Union has adopted a mostly institutional approach to the concept by focussing largely on judicial reform By testing the relevant practice against the background of the constitutional traditions of the Member States and legal theory the book attests to the significance of developing a comprehensive approach to the rule of law in EU external relations

Introduction to French Law George A. Bermann, Etienne Picard, 2008-01-01 French law displays many characteristics that set it apart in a world class of its own It can be said to proceed from a number of independent streams that coexist despite apparent contradiction More than half of the 2283 articles of the famous Code

Civile of 1804 remain unaltered yet French administrative judges jealously guard their prerogative to create their own public law And yet again since the 1974 law empowering the legislature to convene the Constitutional Council that judges the constitutionality of laws under the 1958 Constitution the courts distinction between rules and fu *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 *International Law Reports* E. Lauterpacht, 1970 *International Law Reports* is the only publication in the world wholly devoted to the regular and systematic reporting in English of courts and arbitrators as well as judgements of national courts **Comparative Administrative Law** Susan Rose-Ackerman, Peter L. Lindseth, Blake Emerson, 2017-08-25 A comprehensive overview of the field of comparative administrative law that builds on the first edition with many new and revised chapters additional topics and extended geographical coverage This Research Handbook s broad multi method approach combines history and social science with more strictly legal analyses This new edition demonstrates the growth and dynamism of recent efforts spearheaded by the first edition to stimulate comparative research in administrative law and public law more generally reaching across different countries and scholarly disciplines

International Encyclopedia of Comparative Law Mauro Cappelletti, 1987 **Judging Composite Decision-Making** Filipe Brito Bastos, 2024-11-14 This book examines the European Court of Justice s principles relating to composite decision making Through rigorous case law analysis it shows how these rely on national and Union observance of rule of law requirements under what the book calls the Unitary Protection doctrine It explores the theoretical dimension of this doctrine illustrating how it represents a departure from the EU s foundational federalist approach to administrative law This fills a long standing gap in the literature and in our full understanding of composite decision making a key tenet of EU law EU constitutional and administrative law scholars will be fascinated by this compelling study *The Evolution of EU Law* Paul Craig, Gráinne de Búrca, 2021-08-19 This last decade has been particularly turbulent for the EU Beset by crises the financial crisis the rule of law crisis the migration crisis Brexit and the pandemic European Law has had to adapt and change in a way not previously seen First published in 1999 the goal then was to reflect on the important developments that had been made since the creation of the EEC That goal has not changed From EU Administrative Law through to the Regulation of Network Industries each chapter in this seminal work assess the legal and political forces that have shaped the evolution of EU law

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