

Faculty of Law



PUBL2341 Administrative Litigation

[30h] 4.5 credits

This two-yearly course is taught in 2006-2007, 2008-2009,...

This course is taught in the 2nd semester

Teacher(s): Robert Andersen
Language: French
Level: Second cycle

Aims

Whatever the dominant ideology, state intervention in every sector of human activity has become an unavoidable reality. The omnipresence of the state and its multiple interventions are causing a growing number of disputes. Not only can the subjective rights of citizens be harmed, but also their legitimate interests. The Administrative Litigation course has set itself the task of systematically studying ways of preventing and settling the said disputes. The relevance of this course is obvious for law students, whatever their choice of career. It is an essential component of the judicial law course.

Main themes

The relationship between the administrative authorities and citizens is not always smooth; there may be "disputes" between the former and the latter. The purpose of the Administrative Litigation course is to analyse the specific features of these disputes and to study the means available in our legislation to provide an appropriate solution to them. The course aims to cover all conflicts arising between individuals and the administrative authorities, regardless of which authority is competent to settle them; it cannot be limited to the study of administrative jurisdictions or even the Council of State. Nevertheless, the course chiefly focuses on applications to set aside an administrative decision on grounds of ultra vires action. The course covers: - a general overview of the various remedies available in Belgium in the field of administrative litigation; - the Council of State; - the power of the courts, under Article 107 of the Constitution, to dispute the legality of decrees and regulations.

Content and teaching methods

The "Administrative Litigation" course includes, by definition, a general study of the subject as well as specific studies of the various remedies available in Belgium to contest the acts of the administrative authority: for example, applications for administrative review; applications which can be submitted to an active administrative authority (claims filed with an administrative authority which decide the issue in dispute); general or special applications falling within the jurisdiction of judicial courts and tribunals and, supplementing the latter, objections of illegality; appeals that can be made to various specialised administrative jurisdictions; lastly, claims of a very different kind which can be submitted to the Council of State. Because of the key role played by the Council of State in this respect, the greatest part of the course is devoted to it. The main features of this institution is highlighted, and the various powers of its administration section is dealt with. In particular, emphasis is placed on the study of applications to set aside decisions on the grounds of ultra vires action, undeniably one of the main powers of the administration section of the Council of State. We examine this type of application in detail from the point of view of conditions of competence, admissibility and adequacy of the case, also studying, if need be, the accompanying application for the suspension of the enforcement of administrative acts.

Other information (prerequisite, evaluation (assessment methods), course materials recommended readings, ...)

In order to make the teaching more practical and to offer students the opportunity to play a more active part in their training, they are asked to analyse judgements from the Council of State and to examine case studies. The most appropriate method seems to be lectures, but more participative methods may also be considered.