



## EUROPEAN ADMINISTRATIVE LAW

(2015/2016)

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### FICHA CURRICULAR / SYLLABUS

**SUBJECT:** The Europeanization of Administrative Law as an Engine of Convergence between National Legal Orders: the Birth of a Cosmopolitan Method to Regulate Transnational Relations

**SUMMARY:** «European Administrative Law» [EAL] will be centered in a broad concept of normativity and of European public administrative which is not constrained to a descriptive study of the EU administration (in a strict sense). As a reciprocal convergence mechanism between national legal orders and national public administrations, EAL will be used as an excuse to think, in a broader and profound manner, about the urgency to conceive new structures of transnational pursuit of global public interests. Beyond the study of administrative organization and of the European administrative procedure, EAL will face the need to react and respond, in juridical terms, to the globalization of administrative situations, by means of special normative binding rules and principles but also through new mechanisms of transnational competence and transnational recognition of administrative activity and court's decisions. At last, students will also profit from a comparative analysis of several administrative systems, in order to identify and extract well-grounded *Dzgood governancedz* indicators.

## I. CURRICULUM

### PART I

#### THE EUROPEAN DIMENSION OF PUBLIC ADMINISTRATION

1. The EU institutional structure – attributions and competences
  - 1.1. Introduction – distinction between public legal persona, organ and office holders
  - 1.2. EU legal personality
  - 1.3. EU attributions
  - 1.4. Transnational nature of the EU organs
  - 1.5. European Parliament
  - 1.6. Council
    - 1.6.1. European Council
    - 1.6.2. EU Council
      - 1.6.2.1. General Affairs Council
      - 1.6.2.2. Specialized councils (specially, the ECOFIN)
    - 1.6.3. Committee of Permanent Representatives (COREPER)
  - 1.7. European Commission
  - 1.8. Court of Justice
  - 1.9. European Ombudsman
  - 1.10. European Central Bank
  - 1.11. Distribution of competences between EU organs
2. The relation between the EU legal order and the national legal orders
  - 2.1. National Law, European Law, International Law and Global Law
  - 2.2. The primacy of EU Law
  - 2.3. The relations with national constitutional binding rules
  - 2.4. EU Law as a source of administrative normativity: the extension of the legality principle

### 3. The prosecution of the european administrative function

- 3.1. Typology of EU acts
- 3.2. The ownership of administrative competence
- 3.3. Direct administration
- 3.4. Indirect administration
- 3.5. Autonomous administratiton
- 3.6. The coordination between EU administration and national public administrations
  - 3.6.1. Homogenous administration (or european)
  - 3.6.2. Heterogenous administration (or national)
- 3.7. Mixed administrative procedures

### 4. European Administrative Law (EAL) general principles

- 4.1. The formation of the transnational general principles: the uprise of Global Administrative Law (GAL)
- 4.2. The principle of loyal cooperation
- 4.3. The principle of organizative autonomy
- 4.4. The principle of reliance presumption of national procedural rules
- 4.5. The principle of effective judicial review
- 4.6. The principle of procedural participation
- 4.7. The principle of access to the administrative documents

### 5. The implications over national public administrations

- 5.1. Internal organizative reestructuring
- 5.2. The interpretation and application of EU administrative law
- 5.3. International and european administrative cooperation
- 5.4. Comitology
- 5.5. Continuous training of head-offices, officeholders and civil servants

6. On the way to an Europeanized administrative procedure
  - 6.1. Jurisdicional criation of general principles
  - 6.2. Harmonization of national legal regimes
  - 6.3. Uniformizaton: specially, the European Customs Code
  - 6.4. Typology of procedures and its specificies
    - 6.4.1. Procedures before the homogeneous administration
    - 6.4.2. Procedures before national administrations
    - 6.4.3. Mixed procedures

## PARTE II

### THE OUTCOME OF GLOBALIZATION OVER THE ADMINISTRATIVE PROCEDURE

7. The transnational dimension of Administrative Law
  - 7.1. Globalization and the reaction of national administrations
  - 7.2. The decay of the territoriality principle and appliance of foreign, international and transnational Administrative Law
  - 7.3. Transnational sources of Administrative Law
  - 7.4. Network administrative systems
  
8. The Enlargement of procedural rights
  - 8.1. Right to good administration: efficiency and sustainability
  - 8.2. Right to participation
  - 8.3. Right to acess to administrative documents
  - 8.4. Right to a rationale grounding
  - 8.5. Right to a prompt procedure
  - 8.6. Right to effective judicial review
  - 8.7. Right to translation and of access to an interpreter
  - 8.8. Right to the recognition of foreign administrative acting

## 9. Negotiation, signature and execution of contracts by public administration

- 9.1. European implications over public procurement
- 9.2. The launch of international competitions
- 9.3. The guarantees of competitors and contractors

## 10. Transnational Competence

- 10.1. The principle of greater effectiveness
- 10.2. Positive and negative conflicts of transnational competence between national administrations
- 10.3. Extraterritorial acting
- 10.4. Cross-border cooperation

## 11. Transnational recognition of foreign administrative acting

- 11.1. The prohibition of double burden
- 11.2. Modalities of transnational recognition
  - 11.2.1. Administration recognition
  - 11.2.2. Jurisdictional recognition
  - 11.2.3. Automatic recognition
  - 11.2.4. Conditioned recognition
  - 11.2.5. Specially, the recognition of qualifying documents
  - 11.2.6. Recognition of academic qualifications
  - 11.2.7. Recognition of professional qualifications and skills
  - 11.2.8. Recognition of permits to fly, driving and navigation licenses
  - 11.2.9. Recognition of hunting licenses and licenses to carry a firearm
  - 11.2.10. Recognition of commercial and industrial licenses
  - 11.2.11. Specially, the recognition of certifying acts
  - 11.2.12. Recognition of documents issued by foreign public entities
  - 11.2.13. Recognition of documents issued by foreign private entities

11.2.14. Recognition of electronic documents issued by foreign entities

PARTE III

COMPARED MODELS OF *DzGOVERNANCEdz* IN PUBLIC ADMINISTRATION

12. Compared administrative systems

- 12.1. The european continental model of *Dzexecutive administrationdz* of French or objectivist inclination
- 12.2. The european continental model of *Dzexecutive administrationdz* of germanic or subjectivist inclination
- 12.3. The anglo-saxonic model of *Dzjudiciary administrationdz*
- 12.4. The US presidential model with autonomous agencies
- 12.5. The Chinese centralized model
- 12.6. The islamic model of confessional State

13. Fundamental principles of administrative *Dzgood governancedz*

- 13.1. The principle of administrative efficiency
- 13.2. The principle of reasonable use of public resources
- 13.3. Mechanisms of self-control and external control
  - 13.3.1. Internal organization and management of public organs and services charged of european, international and transnational acting
  - 13.3.2. Methods and mechanisms fo european, international and transnational administrative negotiation
  - 13.3.3. The promotion of internal democraticity and transparency of the international administrative cooperation structures

**II. EVALUATION REGIME**

Following paragraph *b*) of article 3 of the Evaluation Statute (*Regulamento de Avaliação de Conhecimentos nos Cursos de Especialização Integrados nos Mestrados de Bolonha*, available at



<http://www.fd.ulisboa.pt/LinkClick.aspx?fileticket=h0aqv1zibs%3d&tabid=184>), the evaluation regime will be the following:

- Written paper on a specific subject of the curriculum: 100%

The written paper must be delivered until 30<sup>th</sup> april, 2015, according to the following requisites:

- a) Maximum of 50 pages (excluding bibliography and other addenda);
- b) Communication of the subject of the paper until 6<sup>th</sup> march, 2015, for approval;
- c) Written in English;
- d) Signature of a commitment of originality.

The evaluation will be personally notified to the students until the penultimate week of the school calendar. The students whose grades are negative (9 out of 20, or less) and the students whose grades are superior to 15 (16 out of 20, or more) will be submitted to an oral enquiry, according to the following rules:

- a) Maximum of 15 minutes, per student;
- b) Discussion exclusively centered on the subject of the written paper;
- c) Public oral enquiry during the class timetable, on the last week of the semester.

The regular term non approved students can present themselves to an appeal season, according to article 7.1. of the Evaluation Statute. The appeal will be compound of an oral exam.

### III. LITERATURE

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