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STRUDAE programme :STRUcture of European administrative law

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The STRUDAE programme is the logical successor to the CODAE programme. European administrative law was confirmed by the original programme and now constitutes this new discipline which will study this law's characteristics and structure over the following years in various ways.

The previous CODAE programme provided an important reflection on European administrative law thanks largely to the doctoral workshops in June 2014 which took a three-pronged approach:

1. Formation of a group of doctoral students working on this aspect in their research.
2. Doctoral students of the IRDEIC and other centres (based in Toulouse, French universities and foreign universities)
3. Formation of a group of lecturer-researchers to develop theories on European administrative law and continue on this reflection.

Links with the team that published 'Traité de droit administratif européen' [Treatise on European Administrative Law] (Ed. J. Dutheil de la Rochère and J-B Auby) and participation in our works by Jacqueline Dutheil de la Rochère and Emilie Chevallier (who supervised the 2nd edition of the book in 2014). The STRUDAE programme is the logical successor to the CODAE programme.

European administrative law was confirmed by the original programme and now constitutes this new discipline which will study this law's characteristics and structure over the following years in various ways.

Issues of identification and position
 How to define and understand European administrative law?
 What are the criteria for its identification? Are they organic?
 F u n c t i o n a l ?
 S u b s t a n t i v e ?
 Should it be limited to the administrative part of EU law (approach taken by J. Schwarze and Paul Craig) or should it extend to wherever national administrative law and the European dimension overlap (French approach)?
 Is there any homogeneity between the components of the discipline?
 Can an administrative law common to the Member States and the European Union be defined (see the circular nature of the accountability systems of the Union and the Member States in the *Brasserie du Pêcheur* and *Bergaderm* judgments)?
 Finally, how similar do national administrative laws need to be for European integration?
 Does integration not lead to retaining legal pluralism in the implementation of EU law?
 Does the enlargement of the EU not lead to a greater need for European supervision?
 This requires the particular position of European administrative law to be studied
 In relation to global administrative law (Sabine Cassese)
 In relation to national administrative laws
 Can a European administrative area be described?
 Is the concept legally relevant?
 What type of relationships between actors does it cover?
 Would it be purely descriptive or would it be more significant?
 Is this area connected to the promotion of a European administrative model?

Sources of European administrative law
 The Lisbon Treaty granted greater importance to the executive aspects and detailed the enforcement actions to be

s p e c i f i e d .

What role is held by the Charter of Fundamental Rights which established certain administrative rights including the right to good administration?

What is the judge's role in this regard?

In the development of administrative law, can the role of the French administrative judge be compared to the role performed by the Court of Justice of the European Union?

The role of the European mediator as it has been established, with the code of good administrative conduct also deserves to be studied.

From a formal point of view, the possible codification of non-contentious EU administrative procedures arises.

This possibility should be studied, focusing on at least four issues:

The legal basis that could be used for such codification.

Article 298 TFEU is relevant: '1. In carrying out their missions, the institutions, bodies, offices and agencies of the Union shall have the support of an open, efficient and independent European administration.

2. In compliance with the Staff Regulations and the Conditions of Employment adopted on the basis of Article 336, the European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, shall establish provisions to that end.'

Also worth noting is Article 197 TFEU which foresees the EU supporting the efforts of Member States to improve their administrative capacity to implement Union law.

Secondly, its adequacy, and the possible rigidity resulting from it, has already been critiqued.

Thirdly, the codification might already exist in certain sectors: Regulation 1/2003 on competition, the field of mergers, anti-dumping, state aid, community trademarking, public function of the Union, customs, etc.

Finally, what would be its added value in comparison to the general principles of EU law that already create a particular form of uniformity?

What are the structural pillars of European administrative law?

What are the fundamental principles of this European administrative law?

Does European administrative law use the principles of national administrative laws?

What is the origin of the specific principles or key concepts?

Is the Council of Europe relevant in this regard?

Or does even the OECD offer administrative principles?

What are the goals of European administrative law?

More effective administration?

Protection of the subjects of administrations?

Harmonisation of national administrative laws?

Is it a vehicle for a union of law?

The traditional meaning given to administrative law goes beyond the formal distinction between it and legislation. It contributes to the creation of a rule of law (public power submitting to law, citizen protection against the administration), and ensures a social function (public service).

The European Union is different. The idea of a union of law perhaps does not require EU administrative law to be defined. As for social functions, the field is marked out by the Union's competences-these competences, the Union's policies, are to be implemented; unlike states, it does not have any general ambit.

However, CJEC 21/09/89 Hoechst v Commission should be noted:

'... in all the legal systems of the Member States, any intervention by the public authorities in the sphere of private activities of any person, whether natural or legal, must have a legal basis and be justified on the grounds laid down by law, and, consequently, those systems provide, albeit in different forms, protection against arbitrary or disproportionate intervention.'

The need for such protection must be recognised as a general principle of Community law.'

Methodology - Finalisation - Team

The team formed subsequent to the June 2014 doctoral workshops carries out the research in partnership with a team of doctoral students or new doctors, alongside Toulouse administration specialists from the Institut Maurice Hauriou (Jean-Gabriel Sorbara and Grégory Kalfflèche), and the writing team of the Treatise on European Administrative Law edited by J. Dutheil de la Rochère. A partnership with the Research Network on EU Administrative Law (ReNEUAL) is expected to be strengthened following contacts already established thanks to Professor Jacques Ziller (University of Pavia).

E v e n t s :

Symposium or collective work on the fundamental concepts of the administrative law of the European

U n i o n

On what concepts is this new administrative law based? European general interest?

Public power?

Public service?

Public/private divide?

Executive/legislative distinction?

Law/enforcement distinction?

Symposium on European administrative disputes

The symposium looks at the two levels of European administration disputes:
 The European Court of Justice: study of disputes relating to European public functions, standing for disputing European administrative acts (administrative act and EU accountability; administrative act and annulment proceedings), etc.
 National administrative disputes: impact of EU law on administrative liability systems; Council of State and EU law; disputes on transposition of directives; notion of implementing Union law, etc.

Symposium on 'good administration'
 Good administration and legality
 Good administration and equality
 Good administration and legitimacy
 Good administration and accountability
 Good administration and good governance
 Good administration and fundamental rights

Team

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