



Universitat de Lleida

DEGREE CURRICULUM
ADMINISTRATIVE LAW I

Coordination: Antonio Ezquerra Huerva

Academic year 2013-14

Subject's general information

Subject name	Administrative Law I
Code	101810
Semester	Anual -Estudis de Grau- Jun/Set
Typology	Obligatòria
ECTS credits	9
Theoretical credits	0
Practical credits	0
Coordination	Antonio Ezquerro Huerva
Department	Dret Públic
Important information on data processing	Consult this link for more information.
Language	Castellano y catalán
Office and hour of attention	A determinar

Antonio Ezquerro
Frederic Sola Eras
Laura Salamero Teixido

Learning objectives

Que el alumno alcance unos conocimientos básicos del ordenamiento jurídico administrativo español y se habitúe al manejo de las instituciones que lo integran

Competences

University of Lleida strategic competences

- Correctness in oral and written language.

Goals

- That the student achieve some basic knowledges of the ordenament juridical administrative Spanish and habituĩ to the maneig of the institutions that integrate it.

- Respect of the essential rights of equality between men and women, the promotion of Human Rights and of the values of a peace culture and democracy.

Goals

- That the student achieve some basic knowledges of the ordenament juridical administrative Spanish and habituĩ to the maneig of the institutions that integrate it.

Degree-specific competences

- Show knowledge of the present legal system

Goals

- That the student achieve some basic knowledges of the ordenament juridical administrative Spanish and habituĩ to the maneig of the institutions that integrate it.

- Ability to form a reasoned legal decision

Goals

- That the student achieve some basic knowledges of the ordenament juridical administrative Spanish and habituĩ to the maneig of the institutions that integrate it.

- Ability to perceive and assimilate the unitary nature of the legal system and its necessary transdisciplinary vision

Goals

- That the student achieve some basic knowledges of the ordenament juridical administrative Spanish and habituĩ to the maneig of the institutions that integrate it.

- Ability to identify and interpret the sources of existing law

Goals

- That the student achieve some basic knowledges of the ordenament juridical administrative Spanish and habituĩ to the maneig of the institutions that integrate it.
- Ability to assess upon the possible answers to a legal problem, in various contexts, and design strategies which lead to different solutions

Goals

- That the student achieve some basic knowledges of the ordenament juridical administrative Spanish and habituĩ to the maneig of the institutions that integrate it.

- Ability to redact legal documents of a different nature

Goals

- That the student achieve some basic knowledges of the ordenament juridical administrative Spanish and habituĩ to the maneig of the institutions that integrate it.

- Adquisition of a critical awareness in the analysis of the legal system and in the development of a judicial dialectic

Goals

- That the student achieve some basic knowledges of the ordenament juridical administrative Spanish and habituĩ to the maneig of the institutions that integrate it.

- Ability to negotiate and conciliate

Goals

- That the student achieve some basic knowledges of the ordenament juridical administrative Spanish and habituĩ to the maneig of the institutions that integrate it.

- Show knowledge of the characteristics, conceptual schedules, institutions and procedures of the judicial system

Goals

- That the student achieve some basic knowledges of the ordenament juridical administrative Spanish and habituĩ to the maneig of the institutions that integrate it.

- Ability to identify social interests and associated values in the judicial principles and rules

Goals

- That the student achieve some basic knowledges of the ordenament juridical administrative Spanish and habituĩ to the maneig of the institutions that integrate it.

Degree-transversal competences

- Ability to adequately manage information (Instrumental ability)

Goals

- That the student achieve some basic knowledges of the ordenament juridical administrative Spanish and habituĩ to the maneig of the institutions that integrate it.

- Ability to work in a team (Interaction ability)

Goals

- That the student achieve some basic knowledges of the ordenament juridical administrative Spanish and habituĩ to the maneig of the institutions that integrate it.
- Ability to keep to an ethical commitment (Systemic ability)

Goals

- That the student achieve some basic knowledges of the ordenament juridical administrative Spanish and habituĩ to the maneig of the institutions that integrate it.
- Ability to pursue permanent autonomous learning and adapt to the new circumstances (Systemic ability)

Goals

- That the student achieve some basic knowledges of the ordenament juridical administrative Spanish and habituĩ to the maneig of the institutions that integrate it.
- Ability to analyse and synthesize (Instrumental ability)

Goals

- That the student achieve some basic knowledges of the ordenament juridical administrative Spanish and habituĩ to the maneig of the institutions that integrate it.
- Ability to follow initiative, be creative and lead (Systemic ability)

Goals

- That the student achieve some basic knowledges of the ordenament juridical administrative Spanish and habituĩ to the maneig of the institutions that integrate it.

Subject contents

A. Introduction to administrative law

Lesson 1. Public administration and administrative law

1. Concept and character of administrative law.
2. Relations of administrative law with other sectors of the legal system.
3. Historical outline of the emergence and evolution of administrative law, with particular reference to Spain.
4. The scope of application of administrative law. The use of other branches of Law by the public administrations. The application of administrative law to other subjects other than the public administrations.

Lesson 2. The constitutional bases of administrative law

1. Administration and Constitution. Constitutional guidelines on administrative organisation and administrative procedure.
2. The Rule of Law clause and its implications: principle of legality and principle of subjection of judicial control.
3. Focus on the principle of legality. Administrative authorities: controlled authorities and discretionary authorities. Techniques of control of administrative arbitration.
4. The democratic principle and the public administration. Citizen participation in administrative affairs.
5. The rule of law clause.

B.Sources of administrative law

Lesson 3. The legal-administrative system. The Law and governmental regulations with legal status.

1. The legal-administrative system.
2. The Constitution as a legal rule.
3. Laws: types. Control of the constitutionality of laws.
4. The Decree-Law.
5. Delegated legislation.

Lesson 4. The regulation.

The regulatory authority of the Administration. Concept and types of regulation.

1. Holders of regulatory authority.
2. The scope of regulatory authority. The principle of legal right. Regulatory deferral. Delegitimation.
3. The regulation drafting procedure.
4. The unique irrevocability of regulations.
5. The judicial control of the regulatory authority.

Lesson 5. Other sources of administrative law

1. The value of custom in administrative law.
2. The significance of administrative precedent.
3. Disuse or desuetude.
4. General principles of the Law.
5. The value of case law.

C.General theory of administrative organisation.

Lesson 6. The subjective structures of public organisation

1. Basic structural concepts of administrative organisation: entities, bodies, units and job.
2. The diversity of public administrations in Spanish administrative organisation.
3. Regional administrations.
4. Non-regional administrations: institutional administrations and corporate administrations.
5. Inter-administrative relations. Relations of protection and control. Relations of collaboration. Relations of conflict.

Lesson 7. General theory of the administrative body

1. Types of administrative bodies.
2. Legal regime of governing bodies.

3. Inter-organic relations of authority: delegation, authorisation of signature, entrustment, evocation and substitution.
4. Decentralisation.

D. Administrative affairs.

Lesson 8. Concepts and general principle

1. Forms of activity of the Administration.
2. Citizens and administrative affairs. General subjection relations and special subjection relations.
3. Citizen legal situations before the public administration: active, passive and intermediate situations.
4. Citizen's rights in dealing with the administration.

Lesson 9. Administrative procedure. General issues.

1. Administrative procedure. Concept and types.
2. The regulation of procedure in Spanish administrative law. The distribution of powers for governing administrative procedure: "common administrative procedure" in the Constitution and in the LRJAP (Law on the Legal Regime of the Public Administrations).
3. The general principles of administrative procedure. Official in nature, impartiality, contradiction, speed.
4. The concept of interested party and the rights pertaining the reto.

Lesson 10. Procedure in administrative action.

1. The procedural sequence.
2. Initiation of procedure. Official initiation and initiation upon request by the interested party. The adoption of provisional measures.
3. Procedural instruction. Study of the main acts of instruction.
4. The proposed resolution and procedure of interested party hearing.
5. Termination of the procedure. In particular, annulment and expiry.

Lesson 11. Administrative action.

1. Concept and elements of administrative action. Types.
2. Administrative silence.
3. Efficacy of administrative action. Notification and publication of action.
4. Suspension of administrative action.
5. The principle of self-protection. Enforcement of administrative action.

Lesson 12. Invalidity of administrative action.

1. Nullity and nullability: conceptual distinction and distinction of legal regime.
2. Cases of nullity and nullability.
3. Non-invalidating formal irregularities.

4. The principle of the legal act: corroboration, conversion and conservation of administrative action.

Lesson 13. Power of official review of the administration of its own acts.

1. Annulment of administrative action and its forms: official review and declaration of harmfulness.
2. Official review of null and void acts.
3. Declaration of harmfulness of annulable action.
4. Revocation of administrative action.
5. Rectification of material, factual or arithmetical errors of administrative action.

E. The authority of the administration to impose penalties

Lesson 14. General legal regime of the penalty authority

1. The authority of the administration to impose penalties: concept and justification.
2. The legal framework of administrative penalty law. Brief reference to the key sectors, particularly traffic.
3. The main material grounds of administrative penalty law.
4. The right of presumption of innocence.

Lesson 15. The administrative penalty procedure

1. Measures prior to the initiation of the penalty procedure.
2. Initiation of the penalty procedure. Special reference to the charge and its specific problems.
3. Examination of the penalty procedure. Special reference to proof.
4. Termination of the penalty procedure.
5. The penalty: concept and content.
6. Limitation of administrative violations and penalties.

F. Legal guarantees for citizens: control of the legality of administrative affairs.

Lesson 16. General approach and administrative appeals.

1. Introduction. Administrative appeals and other similar concepts.
2. Control of the public administration by the ombudsman and independent parliamentary commissioners.
3. Administrative appeals. Appeal for reversal. Appeal with appellate court for reversal of administrative ruling. Special appeal for review.
4. Claims prior to civil and employment court action.

Lesson 17. Contentious-administrative jurisdiction.

1. Historical evolution of administrative justice in Spain.
2. Nature, extension and limits of contentious-administrative jurisdiction.
3. The organisational structure of contentious-administrative jurisdiction.

- Distribution of powers among the bodies that comprise the contentious-administrative jurisdiction order.

Lesson 18. Contentious-administrative proceedings (I)

- The parties: special consideration of legitimisation.
- The object of appeal. Contestable administrative activity.
- Interim judicial protection. Suspension of the contested act.
- Ordinary contentious-administrative proceedings.
- Abbreviated proceedings.
- Methods of terminating contentious-administrative proceedings, particularly the ruling and its execution.

Lesson 19. Contentious-administrative proceedings (II)

- Appeals* against judicial decisions, writs and rulings. Remedy of appeal. Appeals to the Supreme Court. Appeal for review.
- Special proceedings.
- Proceedings for the protection of the person's fundamental rights.
- The question of illegality.
- Proceedings in cases of prior administrative suspension of agreements.

Evaluation

Objectius	Activitats d'Avaluació		Dates	O/V (1)	I/G (2)	Observacions
	Criteris	%				
Comprobar la amplitud de los conocimientos del alumno, el rigor y la precisión de su exposición, así como la capacidad de síntesis	Examen teórico	45	A determinar por la Comisión de Estudios correspondiente	O	I	Ver Aclaraciones

Objectius	Activitats d'Avaluació Criteris	%	Dates	O/V (1)	I/G (2)	Observacions
Comprobar la capacidad del alumno para situar los problemas planteados en el marco legal adecuado y para realizar una correcta labor interpretativa y aplicativa de los preceptos legales al concreto supuesto de hecho planteado.	Examen práctico	45	A determinar por la Comisión de Estudios correspondiente	O	I	Ver Aclaraciones
Comprobar la capacidad del alumno para argumentar jurídicamente						
Comprobar el grado de comprensión de la materia y la agilidad intelectual del alumno en el manejo de las instituciones propias de la asignatura.	Participación del alumno en seminarios y clases prácticas	10		V	I	Ver Aclaraciones

(1) Obligatòria / Voluntària (2) Individual / Grupal

Aclariments

Sistema de evaluación:

La valoración del trabajo del alumno a efectos de juzgar su suficiencia tiene lugar a través de tres criterios: conocimientos teóricos (45%), conocimientos prácticos (45%) y participación en el curso (10%). Dichos criterios se valorarán del siguiente modo:

A) Participación en el curso: los alumnos que lo deseen pueden optar a una valoración de curso mediante su participación activa y continuada en los seminarios y clases prácticas. Se tendrá especialmente en cuenta la entrega de dos prácticas que el profesor correspondiente recogerá de forma aleatoria a lo largo del curso.

B) Conocimientos teóricos y prácticos. Se ofrecen al alumno dos vías para demostrar la adquisición de dichos conocimientos:

1. Mediante la realización de dos exámenes parciales. El primero se realiza en febrero y su superación está sometida a la obtención de un siete sobre diez (7/10), en cuyo caso se libera (solo a efectos de examen teórico) la materia evaluada. El segundo parcial, al que solo pueden presentarse los alumnos que hayan superado el primero, se realiza en junio y su superación está sometida a la obtención de un cinco sobre diez (5/10). Este segundo parcial incluye toda la materia excepto aquella liberada. La superación de la asignatura por medio de los dos exámenes parciales está en todo caso sometida a la superación de ambos parciales, según los criterios señalados. En ese caso, la calificación final de la asignatura se obtiene a partir del cálculo de la media de la nota de ambos exámenes parciales.
1. Mediante la realización de un examen global en junio. A este examen global pueden presentarse (a) aquellos alumnos que no hayan realizado ninguno de los exámenes parciales, (b) aquellos que no hayan superado el primer parcial.

Tanto los exámenes parciales, como el global constan de dos partes: una prueba teórica y un caso práctico, siendo preciso aprobar ambas partes para superar el examen de que se trate. En la parte teórica se valora la amplitud de los conocimientos del alumno, el rigor y la precisión de su exposición, así como la capacidad de síntesis. En el caso práctico, para cuya resolución se utilizan los textos legales de la asignatura, se valora sobre todo la capacidad del alumno para situar los problemas planteados en el marco legal adecuado y para realizar una correcta labor interpretativa y aplicativa de los preceptos legales al concreto supuesto de hecho planteado. Se tiene en cuenta asimismo en esta parte práctica la capacidad del alumno para argumentar jurídicamente.

Para aprobar cualquiera de los exámenes —los parciales o el global— es preciso aprobar tanto la prueba teórica como la prueba práctica separadamente. Aprobar el examen teórico es condición previa indispensable para proceder a la corrección del examen práctico.

Por último cabe recordar que en junio se realiza la convocatoria de recuperación, que consiste igualmente en un examen dividido en una prueba teórica y una práctica, que se somete a los criterios de superación ya mencionados. A este examen de recuperación pueden presentarse (a) aquellos alumnos que no hayan superado el examen global y (b) aquellos que, habiendo superado el primer examen parcial, suspendan el segundo. En cualquiera de los dos supuestos el alumno se examina de todo el temario en dicho examen de recuperación —es decir, en ningún caso se “guarda” la nota del primer parcial.

Conceptos de “no presentado” y de “convocatoria consumida”

A efectos de considerar que el alumno se ha presentado a examen y, por tanto, ha consumido la correspondiente convocatoria, se tendrá en cuenta la convocatoria oficial de junio. Ello significa que quien se presenta a dicho examen, consume la convocatoria aunque posteriormente no se presente al examen de recuperación. En el mismo sentido, el examen de recuperación queda reservado a los alumnos que han suspendido el examen de junio y a aquéllos que habiéndolo aprobado, deseen optar a mejorar la calificación obtenida. En consecuencia, el alumno que no se presenta a la convocatoria oficial de junio, no puede concurrir al examen de recuperación, toda vez que sólo es recuperable aquello que se ha perdido previamente, y no lo que nunca se tuvo.

Bibliography

Recommended bibliography

1.- The general bibliography in Spanish on Administrative Law now includes some very diverse works as far as their purpose and their style are concerned. Particularly significant works of reference, which include numerous bibliographical references for future in-depth study, are the following:

- ? GARCÍA DE ENTERRÍA, E. and FERNÁNDEZ RODRÍGUEZ, T.R., Curso de Derecho Administrativo, Civitas, Madrid, 2 vols.
- ? SÁNCHEZ MORÓN, M., Derecho Administrativo. Parte general. Ed. Tecnos, Madrid.
- ? SANTAMARÍA PASTOR, J.A., Principios de Derecho Administrativo General, ed. Iustel, Madrid, 2 vols.

It is also very useful to refer to the different introductions in the compilation of laws entitled "Leyes Administrativas", by Prof. L. MARTÍN REBOLLO and published by Aranzadi.

Other manuals and general works include:

- ? BERMEJO VERA, J., et al., Derecho Administrativo. Parte especial, Civitas, Madrid.
- ? BERMEJO VERA, J., Derecho Administrativo básico, Egido, Zaragoza.
- ? COSCULLUELA MONTANER, L., Manual de Derecho Administrativo, Civitas, Madrid.
- ? ENTRENA CUESTA, R., Curso de Derecho Administrativo, Tecnos, Madrid, vols. I/1, and I/2.
- ? GONZÁLEZ NAVARRO, F., Derecho Administrativo Español, EUNSA, Pamplona, vol. I, II and III.
- ? MORELL OCAÑA, L. Curso de Derecho Administrativo, I and II, Aranzadi, Pamplona.
- ? MUÑOZ MACHADO, S: Tratado de Derecho Administrativo y Derecho Público general, T. I, ed. Civitas, Madrid.
- ? PARADA VÁZQUEZ, R. Derecho Administrativo, Marcial Pons, Madrid, vol. I (Parte general), vol. II (Organización y empleo público) and vol. III (Bienes públicos y urbanismo).
- ? PAREJO ALFONSO L. et al., Manual de Derecho Administrativo, Ariel, Barcelona.
- ? SANTAMARÍA PASTOR, J.A., Fundamentos de Derecho Administrativo I, Editorial Centro de Estudios Ramón Areces, Madrid.

* Remember to purchase or consult the latest edition of any of these works.

2.- For specific aspects on the organisation and legal system of the administration in Catalonia, see Manual de Dret Públic de Catalunya, by E. ALBERTÍ, E. AJA, T.FONT, X. PADRÓS and J. TORNOS, Institut d'Estudis Autònoms, Barcelona. 2002.

3.- Complementary work instruments also include some volumes with practical cases and other teaching materials,

which could be of use in preparing subjects:

- ? AGUADO i CUDOLÀ, V; NAVARROMUNUERA, A-E and TRAYTER JIMÉNEZ, J. M. (Coordinators), Casos prácticos y materiales de Derecho Administrativo, vol. 1 and 2, Cedecs, Barcelona.
- ? EMBID IRUJO, A.: Casos prácticos de Derecho administrativo, ed. Ariel, Barcelona.
- ? JIMÉNEZ-BLANCO, A; SUAY RINCÓN, J; PIÑAR MAÑAS, J. L. and GARCÍA MACHO, R., Derecho Administrativo práctico, Tirant lo Blanch, Valencia.

4.- Using regulatory texts is made easier by a large number of legal compilations, which feature particular references to specific sectors or subjects. The following compilations are particularly useful for work on the subjects included in Administrative Law I:

- ? BAÑO LEÓN, J. M^a. (dir.); MOROTESARRIÓN, J. V.; ITUREN OLIVER, A. and BELANDO GARÍN, B: Legislación administrativa, ed. Tirant lo Blanch, Valencia.
- ? Código administrativo, ed. La Ley, Madrid (includes legislative cd-rom).
- ? ESCRIBANO COLLADO, P., Legislación administrativa, Universidad de Sevilla, Sevilla.
- ? GARCÍA DE ENTERRÍA, E. - J.A. ESCALANTE, Legislación administrativa básica, Civitas, Madrid.
- ? HERRERO DE EGAÑA Y ESPINOSA DE LOS MONTEROS, J. M.: Código del régimen jurídico de las Administraciones públicas y procedimiento administrativo común, ed. Aranzadi, Pamplona.
- ? MARTÍN REBOLLO, L., Leyes administrativas, Aranzadi, Pamplona.
- ? PAREJO ALFONSO, Luciano: Legislación administrativa, Ariel, Barcelona.
- ? ROCA ROCA, E., Normas Administrativas básicas, Tecnos, Madrid.

5.- For work on the specific legislation of Catalonia, the “Codi bàsic de dret públic de Catalunya” (Basic Code of public law of Catalonia), prepared by E. ALBERTÍ et al., Marcial Pons, Barcelona, 2001, is particularly useful.

6.- The Internet. Telematic and IT media may also be used for study. Students should therefore refer to the broad range of material available on the “Iustel” Internet Portal (www.iustel.com) for documentation and, particularly, lessons associated with the subject of Administrative Law.

7. In addition to consulting manuals and general works on Administrative Law (see section III), it is also very important that students should study the legal texts of the subject directly as source material. They are therefore very much encouraged to procure these legal texts at the start of the course and to become familiar with the use thereof. As mentioned above, they are essential both in practical classes and in the practical part of the final examination.

A minimum of the following legal texts must be used:

Constitución española, Ley Orgánica del Tribunal Constitucional, Ley de Régimen Jurídico de las Administraciones Públicas y del Procedimiento Administrativo Común, Reglamento del procedimiento para el ejercicio de la potestad sancionadora, Ley de la Jurisdicción contencioso-administrativa, Ley Orgánica del Poder Judicial (preliminary title and precepts on contentious-administrative jurisdiction), Ley del Gobierno, Ley de Organización y Funcionamiento

de la Administración General del Estado, Ley reguladora de las Bases del Régimen Local, Ley Orgánica del Consejo de Estado, Ley de Acceso Electrónico de los Ciudadanos a los Servicios Públicos. As specific to Catalonia: Estatuto de Autonomía de Cataluña, Ley de organización, procedimiento y régimen jurídico de la Administración de la Generalitat (Law 13/1989, of 14 December), and Ley de la Presidencia de la Generalidad y del Gobierno (Law 13/2008, of 5 November); and Ley de Régimen Jurídico y Procedimiento de las Administraciones Públicas de Cataluña (Law 26/2010, of 3 August).