



Universitat de Lleida

DEGREE CURRICULUM  
**ADMINISTRATIVE LAW II**

Coordination: César Cierco

Academic year 2014-15

## Subject's general information

|   |   |
|---|---|
| <b>Subject name</b>                             | Administrative Law II                                   |
| <b>Code</b>                                     | 101818  |
| <b>Semester</b>                                 | 1r Q Avaluació Continuada                               |
| <b>Typology</b>                                 | Obligatòria   |
| <b>ECTS credits</b>                             | 6   |
| <b>Groups</b>                                   | 1 grupo grande, 2 grupos medianos                       |
| <b>Theoretical credits</b>                      | 0   |
| <b>Practical credits</b>                        | 0   |
| <b>Coordination</b>                             | César Cierco  |
| <b>Office and hour of attention</b>             | Cesar Cierco: miércoles, de 9 a 12, despacho 2.24 FDE.  |
| <b>Department</b>                               | Dret Públic   |
| <b>Modality</b>                                 | Presencial  |
| <b>Important information on data processing</b> | Consult <a href="#">this link</a> for more information. |
| <b>Language</b>                                 | Castellano (80 %)<br>Català (20 %)                      |
| <b>Degree</b>                                   | Degree in Law   |
| <b>Office and hour of attention</b>             | Cesar Cierco: miércoles, de 9 a 12, despacho 2.24 FDE.  |
| <b>E-mail addresses</b>                         | cesar@dpub.udl.cat<br>lsalamero@dpub.udl.cat            |

Cesar Cierco  
Laura Salamero

## Subject's extra information

The course is conceived as a continuation of Administrative Law so that once the general part of this subject is covered and the skills and abilities to operate competently in this area of law are acquired, the student is able to penetrate specific sectors of major importance in the organization and conduct of the Administration.

## Learning objectives

Veure apartat competències

## Competences

### University of Lleida strategic competences

- Correctness in oral and written language.

#### Goals

- More than targets in the plural, there is one very clear objective in the singular: to be a good lawyer in the field of administrative law and this involves knowing the theoretical basis and being able to swiftly implement them before a new and original problem. More is sought than just repetition. This course aims to achieve a thoughtful study, to understand the institutions and to address the resolution of a new course with a coherent mental structure and with the help of the basic tools of a lawyer.
- 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

- More than targets in the plural, there is one very clear objective in the singular: to be a good lawyer in the field of administrative law and this involves knowing the theoretical basis and being able to swiftly implement them before a new and original problem. More is sought than just repetition. This course aims to achieve a thoughtful study, to understand the institutions and to address the resolution of a new course with a coherent mental structure and with the help of the basic tools of a lawyer.

### Degree-specific competences

- Show knowledge of the present legal system

#### Goals

- More than targets in the plural, there is one very clear objective in the singular: to be a good lawyer in the field of administrative law and this involves knowing the theoretical basis and being able to swiftly implement them before a new and original problem. More is sought than just repetition. This course aims to achieve a thoughtful study, to understand the institutions and to address the resolution of a new course with a coherent mental structure and with the help of the basic tools of a lawyer.

- Ability to form a reasoned legal decision

## Goals

- More than targets in the plural, there is one very clear objective in the singular: to be a good lawyer in the field of administrative law and this involves knowing the theoretical basis and being able to swiftly implement them before a new and original problem. More is sought than just repetition. This course aims to achieve a thoughtful study, to understand the institutions and to address the resolution of a new course with a coherent mental structure and with the help of the basic tools of a lawyer.
- Ability to perceive and assimilate the unitary nature of the legal system and its necessary transdisciplinary vision

## Goals

- More than targets in the plural, there is one very clear objective in the singular: to be a good lawyer in the field of administrative law and this involves knowing the theoretical basis and being able to swiftly implement them before a new and original problem. More is sought than just repetition. This course aims to achieve a thoughtful study, to understand the institutions and to address the resolution of a new course with a coherent mental structure and with the help of the basic tools of a lawyer.
- Ability to identify and interpret the sources of existing law

## Goals

- More than targets in the plural, there is one very clear objective in the singular: to be a good lawyer in the field of administrative law and this involves knowing the theoretical basis and being able to swiftly implement them before a new and original problem. More is sought than just repetition. This course aims to achieve a thoughtful study, to understand the institutions and to address the resolution of a new course with a coherent mental structure and with the help of the basic tools of a lawyer.
- Ability to redact legal documents of a different nature

## Goals

- More than targets in the plural, there is one very clear objective in the singular: to be a good lawyer in the field of administrative law and this involves knowing the theoretical basis and being able to swiftly implement them before a new and original problem. More is sought than just repetition. This course aims to achieve a thoughtful study, to understand the institutions and to address the resolution of a new course with a coherent mental structure and with the help of the basic tools of a lawyer.
- Show knowledge of the characteristics, conceptual schedules, institutions and procedures of the judicial system

## Goals

- More than targets in the plural, there is one very clear objective in the singular: to be a good lawyer in the field of administrative law and this involves knowing the theoretical basis and being able to swiftly implement them before a new and original problem. More is sought than just repetition. This course aims to achieve a thoughtful study, to understand the institutions and to address the resolution of a new course with a coherent mental structure and with the help of the basic tools of a lawyer.

## Degree-transversal competences

- Ability to work in a team (Interaction ability)

## Goals

- More than targets in the plural, there is one very clear objective in the singular: to be a good lawyer in the field of administrative law and this involves knowing the theoretical basis and being able to swiftly implement them before a new and original problem. More is sought than just repetition. This course aims to achieve a thoughtful study, to understand the institutions and to address the resolution of a new course with a coherent mental structure and with the help of the basic tools of a lawyer.
- Ability to pursue permanent autonomous learning and adapt to the new circumstances (Systemic ability)

## Goals

- More than targets in the plural, there is one very clear objective in the singular: to be a good lawyer in the field of administrative law and this involves knowing the theoretical basis and being able to swiftly implement them before a new and original problem. More is sought than just repetition. This course aims to achieve a thoughtful study, to understand the institutions and to address the resolution of a new course with a coherent mental structure and with the help of the basic tools of a lawyer.
- Ability to analyse and synthesize (Instrumental ability)

## Goals

- More than targets in the plural, there is one very clear objective in the singular: to be a good lawyer in the field of administrative law and this involves knowing the theoretical basis and being able to swiftly implement them before a new and original problem. More is sought than just repetition. This course aims to achieve a thoughtful study, to understand the institutions and to address the resolution of a new course with a coherent mental structure and with the help of the basic tools of a lawyer.
- Ability to communicate orally and in writing in technical language.

## Goals

- More than targets in the plural, there is one very clear objective in the singular: to be a good lawyer in the field of administrative law and this involves knowing the theoretical basis and being able to swiftly implement them before a new and original problem. More is sought than just repetition. This course aims to achieve a thoughtful study, to understand the institutions and to address the resolution of a new course with a coherent mental structure and with the help of the basic tools of a lawyer.

## Subject contents

### A. The administrative organization (the various public authorities).

#### Lesson 1. The General Administration of the State.

1. Structure and regulatory framework.
2. The Government.
3. The Central State Administration. Ministers. Other central bodies: superior bodies, and directive bodies.
4. Territorial Administration of the State: Government Delegates and Sub-delegates.
5. Administration advisory. In particular, the Council of State.

## Lesson 2. The Administration of the Autonomous Communities.

1. The power of self-organization of the Autonomous Communities.
2. General features of the regional administration.
3. Administration of the Autonomous Community of Catalonia. Structure and regulatory framework.
4. The central and territorial administration of the Generalitat.
5. Management Advisory of the Generalitat. La Comissió Jurídica Assessora. El Consell de Garanties Estatutàries.

## Lesson 3. The local government: general aspects.

1. The local scheme in Spain. Its singularities.
2. The regulatory framework for local government.
3. The institutional guarantee of local autonomy: its recognition and significance.
4. The powers of local authorities.
5. The defence of local autonomy.
6. The extraordinary protection of state and regional authorities on local authorities.

## Lesson 4. Public non-territorial bodies: Institutional administration.

1. Institutional administration: general problems and relationship with the phenomenon of flight of Administrative Law.
2. Types of institutional bodies.
3. Legal Status of Public Organizations of the Country's General Administration. Autonomous Bodies, Public Business Organizations and Agencies.
4. Independent administrations.
5. Legal persons of Private Law created by the government: corporations and foundations.

-

## Lesson 5. Public non-territorial bodies: Corporate administration.

1. The corporations of Public Law: nature and main features.
2. The mixed legal regime of Public Law corporations.
3. The various corporations. In particular, Professional Associations.
4. The problems concerning the compulsory licensing of its members. Access to the professions of lawyer and solicitor.

## **B. The contracting activity of the Administration: administrative contracts.**

## Lesson 6. Administrativecontracting (I).

1. General approach.
2. The regulation framework of government contracting.Special reference to the impact of Community Law.
3. Structure and general features of Public SectorContract Law.
4. The substantive scope of the application of PublicSector Contract Law.
5. Administrative contracts and private contracts of theAdministration: The doctrine of separable acts. Excluded businesses andcontracts.

## Lesson 7. Administrativecontracting (II).

1. The parts of the administrative contract: Administration contractor and therequirements to be a contractor. The provision of guarantees.
2. The recruitment procedure. The preparation of thecontract. The tender notice.
3. The award of the contract. The formalization of thecontract.
4. Minor hiring.
5. The judicial control of administrative contracts. Thesystem of provisional protection of the contestant.

## Lesson 8. Administrativecontracting (III).

1. The administration contract execution. The prerogatives of the administration.Special reference to ius variandi.
2. The guarantees of financial balance in administrativecontracts.
3. Assignment and subcontracting. The termination ofcontracts.
4. The typical administrative contracts (I). Public Workscontracts. The concession of public works. Public services contract management.
5. Typical administrative contracts (II). The supplycontract. Service contracts. Contracts of cooperation between the public andthe private sector.

## **C. The servicepersonnel of the Public Administration.**

### Lesson 9. Civilservice: general and conceptual aspects.

1. Introduction. The regulatory framework of publics-service.
2. The service personnel of thePublic Administration. Concept and types. Civil servants.
3. The workforce. Temporary staff.
4. The structural elements of public employment.
5. The management tools of public employment. Inparticular, the relationship of job posts.

## Lesson 10. The status of civil servants.

1. The requirements for access for public service. The selection manner and procedure.
2. The provision of job posts. Professional career.
3. The situations of civil servants.
4. The rights and duties of officials. The system of incompatibilities.
5. The responsibility of civil servants. In particular, the disciplinary system.

## **D. Eminent domain.**

### Lesson 11. Eminent domain (I).

1. Introduction. The double dimension of eminent domain. Differentiation of related figures.
2. The framework of eminent domain.
3. The purpose and content of the expropriation.
4. The subjects of expropriation power: expropriating, beneficiary and expropriated.
5. The *expropiandi cause*. The declaration of public utility or social interest.

### Lesson 12. Eminent domain (II).

1. The expropriation procedure as collateral.
2. The general expropriation procedure. The occupation of need agreement.
3. Compensation or fair price. Legal nature, constituents, assessment criteria.
4. The procedure for determining a fair price. The Provincial Expropriation Jury. Expropriation regional juries.
5. Payment and occupation.
6. The urgent expropriation procedure.

### Lesson 13. Eminent domain (III).

1. Guarantees against delays by the Administration: default interest and reappraisal.
2. The right of reversion.
3. A judicial review of the expropriation. Possibilities and problems that arise.
4. A judicial review against irregularity.

## **E. The liability of the Administration.**

### Lesson 14. The liability of the Administration.

1. Introduction and regulation framework.



2. The functions of the capital responsibility. Differentiation of related figures.
3. The requirements of the capital responsibility. Injury and unlawful damage. The operation of a public service. Causation and possible interference.
4. The administrative procedure to enforce the liability. Jurisdictional unity and exemption from criminal proceedings.

## **F. Public goods.**

### Lesson 15. General theory on public goods (I).

1. Introduction. The different categories of public goods.
2. The regulatory framework of public goods.
3. The public property. Concepts and fundamental characteristics.
4. Classes of state properties. In particular, the natural estate.
5. State property involvement, disaffection and mutation.

### Lesson 16. General theory on public goods (II).

1. The use of public domain. Types of uses.
2. Public domain authorization. The precarious administration.
3. Public domain concession.
4. The protection of the public domain. Inventory and record of public goods.
5. The prerogatives of the Administration to defend their assets. In particular, demarcation and repossession of the property.

### Lesson 17. General theory on public goods (II).

1. The capital assets of the Administration.
2. The acquisition of assets.
3. The alienation and encumbrance of assets.
4. The seizure of assets.
5. Common properties: specialties of ownership, use and protection system.

## **G. The forms of administrative action.**

### Lesson 18. Administrative activity limitation.

1. General approach on ways the Administration acts.
2. Limitation activity. Its basic principles.
3. The various techniques of limitation: information, conditioning and ablation.
4. In particular the administrative authorization. Type, and procedure for granting legal status.
5. Risk management.

## Lesson 19. Development administrative activity.

1. Concept and justification of the administrative developing. The various incentive measures.
2. The economic measures of development. In particular, subsidies.
3. The parts of the subsidy. The award procedure.
4. The rights and duties of the beneficiary. The repayment of the subsidy.
5. The granting of subsidies in the EU context: State aid.

## Lesson 20. Administrative activity of public service.

1. Social benefits of the Administration. Concept, historical development and current regulatory framework.
2. The establishment of the general principles of public service.
3. The general principles of public service.
4. The forms of public service management. Ways of direct and indirect forms of management.
5. The so-called crisis of public service. Regulated activities.
6. Public service in the community context: services of general economic interest and universal service.

Methodology

| Dates<br>(Setmanes) | Descripció:     | Activitat<br>Presencial   | HTP (2)<br>(Hores) | Activitat treball<br>autònom  | HTNP (3)<br>(Hores) |
|---------------------|-----------------|---|--------------------|---|---------------------|
| 1a y 2a             | Lecciones 1-5   | Clase magistral.  | 6                  | Estudio de Manual y lecturas recomendadas. Los temas 1-3 deberán prepararse a partir de los materiales indicados. | 15                  |
| 3a, 4a y 5a         | Lecciones 11-13 | Clase magistral.<br>Análisis de un expediente real de expropiación.<br>Resolución de casos<br>Prácticos       | 10                 | Estudio de Manual y lecturas recomendadas<br>Preparación de casos prácticos<br>Lectura de jurisprudencia          | 10                  |
| 6a                  | Lección 14      | Clase magistral.<br>Lectura de jurisprudencia.<br>Búsqueda de dictámenes.<br>Resolución de casos<br>Prácticos | 4                  | Estudio de Manual y lecturas recomendadas<br>Preparación de casos prácticos<br>Lectura de jurisprudencia          | 5                   |
| 7a, 8a y 9a         | Lecciones 15-17 | Clase magistral.<br>Análisis de las ordenanzas de civismo.<br>Resolución de casos<br>Prácticos                | 12                 | Estudio de Manual y lecturas recomendadas<br>Preparación de casos prácticos<br>Lectura de jurisprudencia          | 15                  |
| 10a, 11a y 12a      | Lecciones 6-8   | Clase magistral.<br>Resolución de casos<br>Prácticos  | 10                 | Estudio de Manual y lecturas recomendadas<br>Preparación de casos prácticos<br>Lectura de jurisprudencia          | 15                  |

|           |  |  |   |  |    |
|-----------|--|--|---|--|----|
| 13a y 14a | Lecciones 9-10                                 | Clase magistral.<br>Resolución de casos<br>Prácticos | 8 | Estudio de Manual y lecturas recomendadas<br>Preparación de casos prácticos<br>Lectura de jurisprudencia | 10 |
| 15 y 16a  | Lecciones 18-20                                | Clase magistral.<br>Resolución de casos prácticos    | 6 | Estudio de Manual y lecturas recomendadas  | 10 |
| 17a       | Resolución de exámenes prácticos de otros años | Resolución de casos prácticos con formato de examen  | 4 | Preparación de casos prácticos   | 10 |

(2)HTP = Hores de Treball Presencial

(3)HTNP = Hores de Treball No Presencial

## Bibliography

### Recommended bibliography

Given the variety of subject areas covered by Administrative Law II, it is very complex to recommend a book or manual that can serve as a guide to all sections of the syllabus. In this manner, in line with the exposition of different issues, the most appropriate bibliographical source will be noted to complement the theoretical explanations. Nevertheless, it is important to highlight the references to two manuals in which you can find a very accomplished explanation of much of the contents:

- GARCÍA DE ENTERRÍA, E. y FERNÁNDEZ RODRÍGUEZ, T.R., *Curso de Derecho Administrativo*, Civitas, Madrid, vol. I y vol. II.
- SANTAMARÍA PASTOR, J.A., *Principios de Derecho Administrativo General*, Iustel, Madrid, vol. I y vol. II.
- Particularly useful also is consulting the various introductions incorporated in the legislative collections of Administrative Law, ed. Aranzadi, authored by Prof. L. MARTÍN REBOLLO.

Remember that it is important when buying or consulting these three works that are constantly renewed, to keep in mind their edition in order to incorporate the latest legislative and doctrinal guidelines and recent case laws.

With regard to legislative material, many compilations are on the market. Among them, particularly successful is that published by Aranzadi (Administrative Law), as outlined above. Additionally, the student must handle some regulations that are not collected, as well as Catalan legislation, which will be duly marked.