

Titre III — les juges de l'administration

Chapitre 1. Le Juge administratif et le juge judiciaire, juges de l'administration

Le contentieux de l'administration n'est pas qu'administratif. Une partie du contentieux de l'administration se passe devant le **juge judiciaire classique**.

On a des juridictions externes, en plus de la dualité de juridiction.

Pour la répartition des compétences entre l'interne et l'externe, par exemple, la CEDH ne peut être saisie que par **épuisement des voies de recours interne**.

Problème de répartition des compétences entre les juridictions ordinaires (administratif et judiciaire) et Conseil constitutionnel (54).

Quid des problèmes de répartition des compétences entre juge administratif et juge judiciaire en temps qu'ils sont tout deux **juge de l'administration**.

Suivant le principe de **séparation des autorités administratif et judiciaire**, dès lors que la partie au litige est une **personne publique**, la compétence judiciaire est **exclut**.

Réalité : principes jurisprudentiels, dispositions législatives et règles constitutionnelles qui fixent des règles de répartition des compétences. C'est la répartition des compétences externe.

Il y'a aussi la répartition des compétences interne à chaque **ordre juridictionnel**. Au sein d'un ordre déterminé — en l'occurrence la juridiction administrative — on examine les **règles de compétences**, à savoir **quelle juridiction administrative il faut saisir**. Il y'a parfois des exception : la première instance peut statuer en 1^{er} et dernier ressort par ex.

Il faut aussi s'interroger quant à la **compétence territoriale** en fonction l'acte et la localisation des parties.

- 1^{er} question que se pose le juge : **compétence de la juridiction**
- 2^{er} : la **recevabilité du recours**
 - ex. : le **délai** de 2 mois pour attaquer un acte
 - ex. : la **capacité** du requérant
- 3^{er} : le recours est **fondé** : *est-ce que le requérant a raison au fond ?*

Les règles de répartition des compétences sont d'**ordre public** → par ex. en matière contractuelle auquel les parties ne peuvent **pas déroger** :

- **contrat administratif** : juge administratif
- **contrat privé** : juge judiciaire

Le **moyen tiré de l'incompétence du juge saisi** est d'**ordre public** → le moyen peut être soulevé **d'office** à tout moment de la procédure.

C'est au législateur de fixer les règles de répartition des compétences. Il n'a quasiment jamais pris part, et quand elle l'a fait, cela a plutôt compliqué les choses.

Section 1. L'absence de critère fiable d'identification de la compétence de la juridiction administrative

TC, 8 février 1873, Blanco :

École du service public, voit l'identification du droit administratif et la compétence du juge administratif à partir de l'arrêt Blanco.

Procdures Durgence Devant Juges Ladministration

Bernard Asso, Frédéric Monera



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Le président de juridiction dans l'ordre administratif Clotilde Morlot-Dehan,2005 **Rechtsbescherming inzake overheidsopdrachten na de wet van 23 december 2009** Constant de Koninck,Peter Flamey,Joost Bosquet,2010 **Droit des relations de l'administration avec ses usagers** Dominique Maillard Desgrées Du Loû,1999-12-31T23:00:00+01:00

Cet ouvrage est une r dition num rique d un livre paru au XXe si cle d sormais indisponible dans son format d origine **Le renouvellement de l'office du juge administratif français** Caroline Leclerc,2015-10-15 Dans le cadre d une politique de renforcement de sa l gitimit le juge administratif fran ais tient de plus en plus compte des attentes du justiciable notamment en termes de protection des droits fondamentaux Ce renouveau a motiv une profonde r novation de ses techniques et m thodes de jugement Le juge administratif fran ais dont les interventions sont maintenant effectives est devenu ce que particuliers et Administration attendent aujourd hui de lui un juge part enti re **Contentieux administratif** Bernard

Asso,Frédéric Monera,2006-10-23 **RECHERCHES SUR LE CONTENTIEUX ADMINISTRATIF DU SURSIS A EXECUTION** Jean-Marc Fevrier,2000-10-01 Cet ouvrage se propose donc d examiner le contentieux administratif travers le prisme de la proc dure du sursis ex cution dans la mesure o celle ci est cens e illustrer la perfection de cette conciliation entre l int r t public et les droits des particuliers Il permet aussi de s interroger sur le r le exact du juge administratif dans l arbitrage entre les exigences de la puissance publique et la protection des administr s contre l action administrative ill gale

Le président du tribunal administratif Pierre-Olivier Parguel,2008 **Les procédures d'urgence : droit judiciaire privé, droit pénal, droit administratif** Colloque des instituts d'études judiciaires et de l'Association française de droit judiciaire,Département d'études régionales,Collectif,1981-01-01T00:00:00+01:00 Cet ouvrage est une r dition num rique d un livre paru au XXe si cle d sormais indisponible dans son format d origine **Droit administratif** Nadine Poulet-Gibot Leclerc,2007 *La justice* La Documentation française,Nicolas Braconnay,2023-07-11 La justice est omnipr sente dans l actualit mais son fonctionnement reste tr s mal connu Cet ouvrage se propose d en pr senter de fa on claire et p dagogique l organisation les institutions et le fonctionnement sous la forme de questions r ponses Cette dition r actualis e permet une connaissance toujours plus pertinente et pointue de la justice civile p nale et administrative L ouvrage s organise autour de quatre th mes centraux la notion de justice et ses principes son fonctionnement son personnel et les relations entre la justice fran aise et internationale Pour chacun des th mes des questions r ponses pr sentent les d finitions et notions essentielles des encadr s portent sur des sujets plus sp cifiques et des clairages historiques et internationaux apportent un utile compl ment

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