

# **ADMINISTRATIVE LAW**

## **GRADO EN DERECHO / BACHELOR OF LAWS**

Professor: **SONSOLES ARIAS GUEDÓN**

E-mail: sariasg@faculty.ie.edu

Degree course: SECOND

Semester: 2<sup>o</sup>

Category: BASIC

Number of credits: 6.0

Language: English

### **PREREQUISITES**

There are no prerequisites for this course. However, students are encouraged to review the institutional part of their 'Constitutional law' course in preparation for this one.

### **SUBJECT DESCRIPTION**

Administrative law is the law that disciplines the operation of the executive branch of government. It is therefore concerned with the organization and decision-making processes of the 'administration', ie, the bureaucratic apparatus through which the executive carries out its policies. Administrative law serves two purposes. The first purpose is to ensure that the administration discharges its constitutional functions; from this perspective, administrative law is concerned with the effectiveness and efficiency of administrative action. The second purpose is to prevent abuse of power and to keep the administration under check; from this perspective, administrative law is concerned with the tools that private actors have at their disposal to fight administrative action.

### **OBJECTIVES AND SKILLS**

The main objective of this course is to introduce students to the main concepts, principles and rules that form the so-called 'general part' of administrative law. More specifically, the course seeks to provide students with a solid understanding of:

- the meaning and goals of administrative law
  - the organic structure of the administration
  - the legal regime of different forms of administrative action
  - the different types of administrative procedures
  - the main models of administrative justice
  - the role of the judiciary in controlling the administration
- By the end of the course, students should be able to:

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- understand and describe the main rules, principles and doctrines through which administrative law keeps the administration under check
- make appropriate use of the different sources of administrative law and properly interpret the relations between them
- assess whether the administration has overstepped its powers in hypothetical or real life scenarios
- identify and discuss the most appropriate ways to enforce correction of administrative misbehavior
- integrate the relevant knowledge and skills gained in this course with the other legal disciplines of the curriculum

## METHODOLOGY

From the perspective of the course content, the methodology will be 'comparative': rather than focusing on a single jurisdiction, the course will confront students with the solutions devised by different legal system to address the same kind of problems. From the teaching perspective, the methodology will combine lectures (where the instructor will explain the main concepts of the discipline) with Q&A sessions (where the instructor will call on specific students to answer questions related to the previously assigned readings).

| Teaching methodology      | Weighting | Estimated time a student should dedicate to prepare for and participate in |
|---------------------------|-----------|--|
| Lectures                  | 13.33 %   | 20 hours   |
| Discussions               | 13.33 %   | 20 hours   |
| Exercises                 | 13.33 %   | 20 hours   |
| Group work                | 13.33 %   | 20 hours   |
| Other individual studying | 46.67 %   | 70 hours   |
| TOTAL                     | 100.0 %   | 150 hours  |

## PROGRAM

### I. THE ADMINISTRATION AND THE MEANING OF ADMINISTRATIVE LAW

#### SESSION 1

The constitutional position of the executive

#### SESSION 2

The constitutional position of the executive

### **SESSION 3**

The structure of the executive

### **SESSION 4**

The structure of the executive

### **SESSION 5**

The functions of the executive

### **SESSION 6**

The functions of the executive

## **II. FORMS OF ADMINISTRATIVE ACTION**

### **SESSION 7**

Administrative regulations

### **SESSION 8**

Administrative regulations

### **SESSION 9**

Administrative decisions

### **SESSION 10**

Administrative decisions

## **III. ADMINISTRATIVE JUSTICE**

### **SESSION 11**

Models of administrative justice

### **SESSION 12**

Models of administrative justice

### **SESSION 13**

Judicial actions

## **SESSION 14**

Judicial actions

## **SESSION 15**

**MID-TERM EXAM**

## **IV. EU ADMINISTRATIVE LAW**

### **SESSION 16**

The structure of the EU administration and the meaning of EU administrative law

### **SESSION 17**

The structure of the EU administration and the meaning of EU administrative law

### **SESSION 18**

Judicial review of EU administrative action

### **SESSION 19**

Judicial review of EU administrative action

## **V. PRINCIPLES OF ADMINISTRATIVE LAW**

### **SESSION 20**

Due process

### **SESSION 21**

Due process

### **SESSION 22**

Property

### **SESSION 23**

Property

**SESSION 24**

Proportionality

**SESSION 25**

Proportionality

**SESSION 26**

Legal certainty and legitimate expectations

**SESSION 27**

Legal certainty and legitimate expectations

**SESSION 28**

Transparency

**SESSION 29**

Transparency

**SESSION 30**

**FINAL EXAM**

## BIBLIOGRAPHY

### Compulsory

No compulsory textbook is required for this course. Students will be required to read materials from different sources, all of which will be distributed through IE Online Campus.

### Recommended

- CRAIG, P., *EU Administrative Law* (2nd edn.: Oxford, Oxford University Press, 2012)
- FROMONT, M., *Droit administratif des États européens* (Paris: Thémis, 2006)
- HOFMANN, H.C.H., ROWE, G.C., and TÜRK, A.H., *Administrative Law and Policy of the European Union* (Oxford, Oxford University Press, 2011)
- SÁNCHEZ MORÓN, M., *Derecho administrativo. Parte General* (12th edn.: Madrid: Tecnos, 2016)
- SEERDEN, J.G.H. (ed.), *Administrative law of the European Union, its Member States and the United States. A Comparative Analysis* (3rd edn: Cambridge: Intersentia, 2012)
- STRAUSS, P.L., *Administrative Justice in the United States* (3d edn.: Durham NC: Carolina Academic Press, 2016)
- WADE, H.W.R. and FORSYTH, C.F., *Administrative Law* (11th edn: Oxford: Oxford University Press, 2014)

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## EVALUATION CRITERIA

### General observations

Each student has four attempts over two consecutive academic years to pass this course.

Dates and location of the final exam will be posted in advance and will not be changed.

Students must attend at least 70% of the sessions. Students who do not comply with the 70% attendance rule will receive a 0.0 on their first and second attempts and go directly to the third one (they will need to enroll in this course again the following academic year).

Students who are in the third or fourth attempt should contact the professor during the first two weeks of the course.

### Evaluation and weighting criteria

| Criteria              | Percentage | Comments  |
|-----------------------|------------|---|
| Class Participation   | 10 %       | Grade based on the overall contribution of each student to the discussions held in class  |
| Tests and assignments | 20 %       | Grade based on the results obtained by each student in the unannounced quizzes set in class and/or in the individual and/or group assignments completed at home |

|               |      |  |
|---------------|------|--|
| Mid-term exam | 20 % | Scheduled for session 15. Students who fail to sit the mid-term exam will be awarded a 0. No exceptions will be made |
| Final exam    | 50 % | Scheduled for session 30. Students who fail to sit the final exam will be awarded a 0. No exceptions will be made    |

### **Retake policy**

Any student whose weighted final grade is below 5 will be required to sit for the retake exam to pass the course (except those not complying with the attendance rules, whom are banned from this possibility).

Grading for retakes will be subject to the following rules:

- The retakes will consist of a comprehensive exam. The grade will depend only on the performance on this exam; continuous evaluation over the semester will not be taken into account.
- The exam will be designed bearing in mind that the passing grade is 5 and the maximum grade that can be attained is 8 out of 10.
- The third attempt will require the student to complete any written assignment(s) required by the instructor and a final exam.  
This is also applicable to students who do not have required attendance, e.g. sickness.
- Dates and location of the retakes will be posted in advance and will not be changed.

## **PROFESSOR BIO**

Professor: **SONSOLES ARIAS GUEDÓN**

E-mail: [sariasg@faculty.ie.edu](mailto:sariasg@faculty.ie.edu)

Sonsoles Arias Guedón is a lawyer specialised in private and public law. Her research interests lie in the field of Constitutional and Administrative law -more specifically in vertical separation of powers and the distribution of competences in federal systems and decentralized countries.

## **OTHER INFORMATION**

- Office hours: by appointment
- Contact: [sariasg@faculty.ie.edu](mailto:sariasg@faculty.ie.edu)

## **CODE OF CONDUCT IN CLASS**

1. **Be on time:** : Students arriving more than 5 minutes late will be marked as “Absent”.

Only students that notify in advance in writing that they will be late for a specific session may be granted an exception (at the discretion of the professor).

2. **If applicable, bring your name card and strictly follow the seating chart.** It helps faculty members and fellow students learn your names.
3. **Do not leave the room during the lecture:** Students are not allowed to leave the room during lectures. If a student leaves the room during lectures, he/she will not be allowed to re-enter and, therefore, will be marked as "Absent".

Only students that notify that they have a special reason to leave the session early will be granted an exception (at the discretion of the professor).

4. **Do not engage in side conversation.** As a sign of respect toward the person presenting the lecture (the teacher as well as fellow students), side conversations are not allowed. If you have a question, raise your hand and ask it. If you do not want to ask it during the lecture, feel free to approach your teacher after class.

If a student is disrupting the flow of the lecture, he/she will be asked to leave the classroom and, consequently, will be marked as "Absent".

5. **Use your laptop for course-related purposes only.** The use of laptops during lectures must be authorized by the professor. The use of Social Media or accessing any type of content not related to the lecture is penalized. The student will be asked to leave the room and, consequently, will be marked as "Absent".
6. **No cellular phones:** IE University implements a "Phone-free Classroom" policy and, therefore, the use of phones, tablets, etc. is forbidden inside the classroom. Failing to abide by this rule entails expulsion from the room and will be counted as one absence.
7. **Escalation policy: 1/3/5.** Items 4, 5, and 6 above entail expulsion from the classroom and the consequent marking of the student as "Absent." IE University implements an "escalation policy": The first time a student is asked to leave the room for disciplinary reasons (as per items 4, 5, and 6 above), the student will incur one absence, the second time it will count as three absences, and from the third time onward, any expulsion from the classroom due to disciplinary issues will entail 5 absences.