

**Administrative Law**

Code: 100520  
 ECTS Credits: 6

Degree	Type	Year	Semester
2500258 Labour Relations	OB	2	1

**Contact**

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**Use of Languages**

Principal working language: catalan (cat)

Some groups entirely in English: No

Some groups entirely in Catalan: Yes

Some groups entirely in Spanish: No

**Teachers**

Ramon Jordi Moles Plaza

Juan Emilio Nieto Moreno

**Prerequisites**

There are no prerequisites.

**Objectives and Contextualisation**

Understand the legal system - administrative, administrative organization, action and activity of the administration, rights of administrators, administrative procedures, contentious-administrative jurisdiction and the role of civil servants.

**Competences**

- Applying the information and communication technologies to the different areas of action.
- Clearly expressing ideas or facts in a compelling way.
- Drawing up and formalising reports and documents.
- Identify the foundations of the main legal and organisational areas in the field of human work.
- Identifying, analysing and solving complex problems and situations from an (economic, historical, legal, psychological, and sociological) interdisciplinary perspective.
- Organising and managing the available time.
- Preparing, drawing up and formalising the general written documents in administrative and judicial processes.
- Recognising the issues related to labour market, social security, and the implementation of legislation and jurisprudential criteria to the assumptions shown in practice.
- Technically representing the people or entities of the administrative, fiscal, and procedural fields, and also of defence in labour courts.
- Working autonomously.
- Working effectively in teams.

## Learning Outcomes

1. Applying the information and communication technologies to the different areas of action.
2. Clearly expressing ideas or facts in a compelling way.
3. Defining the contentious administrative proceeding.
4. Drawing up and formalising reports and documents.
5. Identifying the forms and proceedings of regulation and public ethics management.
6. Identifying the foundations of the Administrative Law: Administrative Law and public administrations.
7. Identifying the foundations of the Financial and Tax Law: government revenues.
8. Identifying the national, autonomic, and local tax system.
9. Identifying the tax systems of business and professional activities.
10. Knowing the administrative act and proceedings and solving the legal-administrative problems derived from the administrative activity.
11. Organising and managing the available time.
12. Preparing documents of implementation of Administrative Law. Detecting incompatibility and conflicts of interest.
13. Preparing documents of implementation of Financial and Tax Law in the business and professional activities.
14. Solving the problems related to the implementation of the administrative regulation. Knowing the resorts to administrative jurisdiction.
15. Working autonomously.
16. Working effectively in teams.

## Content

### I- PUBLIC ADMINISTRATION AND ADMINISTRATIVE LAW

ITEM 1. Concept of administrative law. The statutory character of administrative law. Content and features of administrative law. Right of privileges and guarantees. Administrative law and private law. The instrumental nature of the use made by the public administration of private law.

### II - LEGAL ADMINISTRATIVE ORDINANCE

ITEM 1. Administrative law as a legal system. The legal administrative order: characteristics and application.

The Constitution as a legal norm.

ITEM 2. The law. Headlines of the legislative power. Classes of laws. Organic Laws and Ordinary Laws. Government regulations with force of law: Decrees-laws and decrees-legislative. The International Treaties. Community law as part of the internal legal system.

SUBJECT 3. The Regulation. Concept and justification of the regulatory power. Regulations and administrative acts. Classes of Regulations: executives, independent and of necessity. Procedure for drafting regulations. The role and the participation of the groups. Article 105 of the EC and jurisprudential interpretation. The validity of the Regulations. The singular inderogability of the regulations. The illegal regulations. Resources.

SUBJECT 4. The relations between the law and the regulation. Formal reservation and material reservation of the law. The legislative delegation. Receptive delegation: articulated texts and refused texts. The control of excesses of the delegation. The normative remission. The deslegalization

UNIT 5. The state ordering and the autonomous regulations: the plurality of order-minds and the relations system. The legal system of the autonomous communities and the relation with the state order. Meaning and scope of the political autonomy of the autonomous communities. The regulatory concurrence between the State and the autonomous communities. Basic regulation and development regulations. Autonomous execution of state legislation. Coordination and cooperation between the two orders. Interference relations between the two regulations: state delegations in favor of the autonomous communities, legislative harmonization, coercive intervention. The prevalence and suppositivity clauses. Conflicts of competition.

### III. THE ADMINISTRATIVE ORGANIZATION

ITEM 1. Administrative and legal organization. The preponderance of the military Administration and its principles in the historical configuration of the Spanish public Administration. Public administration in the centralist model and in the pluralistic model.

ITEM 2. Principles of the administrative organization. Organizational power. Theory of the organ. The administrative organs. Classes. Collegiate bodies. Competition Conflicts of competition. Delegation of competences, advocacy, management order, delegation of signature and replacement. The hierarchy The

coordination Centralization and decentralization. Concentration and deconcentration. Competitiveness, conflict, negotiation, coordination, cooperation, participation and deliberation, innovation and experimentation, efficiency and efficiency. The administrative guardianship. Inter-administrative relations. Autonomy and institutional guarantees.

ITEM 3. The administration of the State. The Government and the administration. The president The Council of Ministers. The delegated commissions of the Government. Ministerial departments and ministers. Higher bodies and senior positions. The peripheral Administration of the State. Governments and civil governors: historical evolution and current problems. Other peripheral organs. Government delegates in the autonomous communities.

TOPIC 4. The autonomous communities. The autonomous state. Administration of the autonomous communities. Organization. President of the Executive Board. Departments Peripheral administration of the autonomous communities and their alternatives.

ITEM 5. The local Administration. State regulations and autonomous regulations. The local autonomy. Typology of local entities. The municipality. Elements and organization. Skills The mayor The plenary Deputy Mayor and Government Commissions. The special municipal regimes. The province and the organization of the provincial Administration. Skills The Diputación: the Plenary, the President and the Government Commission. Prospects for reform. Special provincial regimes. Voluntary territorial local entities. The entities of territorial scope less than the municipality. Counties and groups of municipalities. Commonwealth of municipalities. Metropolitan areas The county administration in Catalonia.

Competitive problem.

ITEM 6. The specialized Administration. The two traditional models of organization: foundational-institutional versus associative-corporate. The institutional Administration. Characterization and general problems. Application of private law. The autonomous organisms. Entities of public law subject to private law. Mercantile societies Atypical audiences The institutional Administration of the autonomous communities. Local specialized agencies. mixed economy companies. Consortiums Independent administrations, characteristics and problems. Corporate administration, especially professional colleges and official chambers. Historical evolution. Constitutional framework Legal regime. Consultative and control administration. The Council of State. The Consultative Administration of the Autonomous Communities: the Legal Advisory Commission. Control organs.

#### IV. THE LEGAL POSITION OF ADMINISTRATION AND ADMINISTRATIVE ACTION

ITEM 1. The principle of legality of the Administration. The administrative powers. Regulated powers and discretionary powers. Techniques of reduction and control of administrative discretion.

ITEM 2. The relationship between administration and justice and the principle of self-determination. Origin and justification. Autotutela declarative and presumption of legality of administrative acts. Autotutela executive

Limits and control of administrative autotutela.

ITEM 3. Administrative activity. The legal acts of the Administration: public and private. The question of separable acts. The administrative acts of other public authorities. Political or government acts.

SUBJECT 4. The administrative act. Concept Subjective elements: organ and competition. The owner of the competition: abstention and recusal. Objective elements: assumption in fact, cause, purpose, content and object of the declaration. Formal elements: procedure, form of demonstration and motivation. Classes: resolatory and procedural; favorable taxes; express and presumed; regulated and discretionary; acts that do not cause a state; firm and confirmatory.

TOPIC 5. The effectiveness of administrative acts. Presumption of validity. Executive and executiveness of administrative acts. Conditions of effectiveness: notification and publication. The suspension The administrative silence. The obligation to solve. The presumed acts. Estimates and dismissal effects. The certification of the presumed acts.

SUBJECT 6. Validity and invalidity of administrative acts. Cancellation and revocation. The theory of invalidity in administrative law. Invalidity in full right: assumptions. Cancellation and non-disabling irregularities. Validation, conversion, preservation and isolation of validity. Mistakes in fact, materials and arithmetic. Revocation of administrative acts. Classes. Revocation on grounds of legality: the ex officio review. Statement and resource of injuries. Revocation for reasons of opportunity.

SUBJECT 7. The forced execution of administrative acts. Compulsory means of execution: constraint on heritage, subsidiary execution, coercive fine and compulsion on people. The de facto route.

ITEM 8. The administrative procedure. Origins and meaning of the administrative procedure: the guarantees of the administrator. Classes. The scope of application. General principles of the administrative procedure. Terminals and calculations. Those interested in the administrative procedure: position, capacity and representation. The language of procedures. The rights of citizens in their relations with public administrations.

In particular, the right of access to files and registers.

ITEM 9. The structure of the administrative procedure. Initiation: ex officio and at the request of the party. The instruction: allegations of public information, reports, evidence and hearing process, examination of the file. Completion of the procedure. The resolution Type of completion, in particular, the conventional finalization. ITEM 10. Administrative resources. concept and general principles. Resource classes. The administrative procedure in the form of a resource. Subjective elements and objectives. Interposition, processing and completion. The reformatio in peius .. The ordinary resource. the extraordinary review resource. Alternative dispute or claim procedures. Claim prior to the exercise of civil and labor actions. The economic-administrative claims.

V. ACTIVITY  
ADMINISTRATIVE  
UNIT 1: Administrative activity of promotion; of provision of public services and of limitation.

VI. JURISDICTION  
THE ADMINISTRATIVE CONTENTARY  
SUBJECT 1. Contentious-administrative jurisdiction. Nature, extent and limits of the contentious-administrative jurisdictional order. Organs of the administrative jurisdictional jurisdictional order. Rules of competition. The parties and their legitimacy in the contentious administrative process. Object of the appeal: acts and dispossessions and claims classes.  
ITEM 2. The procedure in the contentious administrative appeal. Interposition The precautionary guardianship: the suspension of the act object of appeal and other precautionary measures. Processing of the process. Demand Reply. Test Conclusions. The ways of finalizing the process. The sentence and its execution. The resource system. The contentious administrative appeal process for the protection of fundamental rights.

VII. FUNCTION  
THE PUBLIC  
ITEM 1. Public function systems. Historical configuration Open and closed models. The Spanish system of public employment: evolution. Legislation in force in this matter. Classes. The public function of administrations. Public function and work regime.  
ITEM 2. The official relationship. Concept and nature. The rights acquired. Selection and entry procedures. Situations of civil servants. Organization of civil servants in bodies, groups, levels and relationships of jobs. The professional promotion Provision and removal of jobs. The content of the official relationship. Rights and duties of civil servants. Regime of incompatibilities. Remuneration. The responsibility of civil servants: criminal, civil, disciplinary and accounting.  
Collective rights of civil servants. the syndicalism in the Administration. collective bargaining in the public office. The strike of civil servants.

VIII. LAW  
THE GLOBALIZATION OF ADMINISTRATIVE LAW  
UNIT 1. Between Europeanization and Americanization: The Catholic and Protestant religious influence in European and American law. The State and the Administration: centralist versus federal. The administrocentric system in front of the individual-centric system. The most relevant law and administration in Spain: Law and the Military Administration. The US, with more market and less regulatory status, to the progressive construction of an administrative and regulatory state: Lincoln and the regulation of anti-slavery rights. The first great wave of President Wilson. The second great regulatory wave of the Roosevelt Presidency. The progressive construction of a singular administrative state: the independent administrative agencies. The third big regulatory wave: Community activism as pressure and regulatory source: The revolution of rights: civil, labor, and mediation. The consecration of a fundamental human right: The right of the citizen to know and access information. The society of risk and the regulation and prevention of risks and human security. Transparency and anti-corruption law. The social responsibility of the company and the role of the "officer" as a supervisor of the general interest. The regulation through litigation. The regulation through the information. The regulation through the revelation. The California effect and EU effect. to global regularization The EU, a new empire? The regulatory empire or the rule of law in the world?

## Methodology

The teacher of each group will determine through virtual campus or explanation to class how each of these activities will be carried out.

## Activities

Title	Hours	ECTS	Learning Outcomes
Type: Directed			
Practical classes	12.5	0.5	1, 2, 12, 6, 11, 4, 15, 16
Theoretical classes	52.5	2.1	10, 3, 9, 6, 7, 5
Type: Autonomous			
Different readings: articles, jurisprudence ...	18	0.72	10, 2, 6, 11, 15
Preparation, writing and presentation of different activities	24	0.96	1, 10, 2, 12, 6, 11, 4, 15
Study	30.5	1.22	10, 3, 6, 15

## Assessment

The teacher of each group will specify in each group the criteria for re-evaluation.

## Assessment Activities

Title	Weighting	Hours	ECTS	Learning Outcomes
Final exam	50%	1.3	0.05	10, 3, 13, 8, 6, 11
Midterm exam	30%	1.2	0.05	10, 12, 6, 11
Practices	20%	10	0.4	1, 10, 2, 12, 9, 6, 7, 5, 11, 4, 14, 15, 16

## Bibliography

At the beginning of the course, the basic bibliography of the course will be specified.

It is highly recommended to follow the subject with any manual of administrative law, such as:

- 1) Ballbé, M., "El futuro del derecho administrativo en la globalización: entre la americanización y la europeización", en *Revista de Administración Pública*, nº 147.
- 2) Bermejo Vera, J., *Derecho Administrativo básico*, Vol. I y II, ed. Civitas, 2016, 12<sup>a</sup> ed.
- 3) Cosculluela Montaner, L., *Manual de derecho administrativo*, Vol. I y II, ed. Civitas, 2015, 26<sup>a</sup> ed.
- 4) Esteve Pardo, J., *Lecciones de derecho administrativo*, ed. Marcial Pons, 2015, 5<sup>a</sup> ed.
- 5) Fuentes Gasó, JR i Gifreu Font, J. (dirs.), *Esquemas de procedimiento administrativo*, Tomo IX, Tirant lo Blanch, 2012, 2a. edición.
- 6) Gamero Casado, E., Fernández Ramos, S., *Manual Básico de Derecho Administrativo*, Tecnos, 2015, 12 edició.
- 7) García de Enterría, E. y Fernández, T. R., *Curso de derecho administrativo*, ed. Civitas, Madrid, 2015, 14<sup>a</sup> ed.
- 8) Martín Mateo, R. y Díez Sánchez, J.J., *Manual de Derecho Administrativo*, ed. Thomson Aranzadi, Navarra, 2014, 29<sup>a</sup> ed.

9) Parada Vázquez, J.R.: *Derecho administrativo*, T. I y II, ed. Open Ediciones Universitario, Madrid, 2015, 22<sup>a</sup> ed.

10) Parejo Alfonso, L., *Lecciones de Derecho administrativo*, Vol. I y II, ed. Tirant lo Blanch, València, 2016, 8<sup>a</sup> ed

11) Sánchez Morón, M., *Derecho administrativo*, Vol. I y II, ed. Tecnos, Madrid, 2015, 11<sup>a</sup> ed.

12) Trayter Jiménez. J.M., *Derecho administrativo. Parte general*, Atelier, 2015, 2 edició.