



AEJ Association of European Administrative Judges

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**Vereinigung Europäischer Verwaltungsrichter
Fédération Européenne des Juges Administratifs
Associazione dei Magistrati Amministrativi Europei
Association of European Administrative Judges**

**Working group “Independence and Efficiency”
Meeting of Palermo (Italy) – 8 and 9 November 2012**

“Europeanization of Administrative Law”

Questionnaire:

PREAMBLE

European law is impacting some of the fundamental aspects of public and administrative domestic law of the EU Member States. And there is much interest to analyse whether a global administrative law is coming into being in Europe under the influence of European Law principles.

This is a new important topic for research in Europe. The Department of Administrative Law and Public Administration of the University of Groningen and the Institute of Constitutional and Administrative Law and the Europa Institut of Utrecht University, held a one-day conference in Utrecht about this topic in the Netherlands in October 2007 (De LANGE (Roel), JANS (Jan), PRECHAL (Sacha) et WIDDERSHOVEN (Rob), “Europeanisation of Public Law”, Groningen, Europa Law Publishing, 2007, 418 pages). Several other books had been published recently about the same issue : for example "The transformation of administrative law in Europe", published jointly by the Universities of Utrecht, Osnabrück and Oxford, 2007 ; "European Administrative Law", collective work, written by 43 authors, published by the Belgium Editor Bruylant, studies coordinated by the French professors Jean-Bernard Auby and Jacqueline Dutheil de la Rochere.

It is also interesting to add that a new periodic publication called "Review of European administrative law", with a logo easy to remember "REALaw", whose aim is to publish studies on the relationship between European law and national administrative law, was created the same year 2007.

European law does not make any distinction between public law and private law. Nevertheless it tends to structure the evolution of all branches of law, and there is no exception for Public law, although it is perhaps more than other branches of law related strongly to the principle of national sovereignty of each state. Mariolina Eliantonio wrote about that: *“Some 40 years after Van Gend en Loos, the impact of European law on the administrative laws of the Member States of the European Union has manifested itself intensely and in many different aspects, because of the influence of both the European Court of Justice and EC legislation. This impact is particularly striking in relation to administrative law, because, as a part of public law, administrative law had long been deemed an area of monopoly of the State and a clear outgrowth of the State sovereign powers that precluded interference from any other jurisdiction. But today European law influences virtually all areas of substantive administrative law, administrative organisation, decision-making proceedings and judicial protection...”* (Mariolina Eliantonio, « Europeanisation of Administrative Justice », Europa Law Publishing, 2009 - 416 pages).

We will study this topic during the first day of our meeting in Palermo in two parts through the most important principles listed below. For each of them you have to make a summary of the issues that have arisen in your national administrative law (problematics, reforms, new case law, unresolved issues...). During our discussions through your answers we will be able to identify commonalities and the main differences that still exist in Europe in the evolution of administrative law.

I The impact of Article 6 of the European Convention of Human Rights (ECHR) about the "right to a fair trial" on litigation proceedings applicable to the administrative courts

The text of article 6 of the ECHR: *“1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice...”*

- 1. An independent and impartial tribunal established by law: the concepts of jurisdiction and administrative court:**
- 2. The right of access to a court and to effective judicial protection, the right to an effective judicial remedy:**
- 3. The right to an adversarial proceedings and the principle of “equality of arms” between the parties:**
- 4. The right to a reasoned decision:**
- 5. A judicial decision made within a reasonable time:**

II The influence of principles of European law in the evolution of administrative law

- 6. The principle of legality and the respect for fundamental rights:**
- 7. The principles of primacy and direct effect of European Union law:**
- 9. The principle of subsidiarity:**
- 10. The principle of transparency:**
- 11. The principle of public participation:**
- 12. The principle of equality and non-discrimination:**
- 13. The principle of proportionality:**
- 14. The precautionary principle:**
- 15. Protection of legitimate expectations and the principles of legal certainty and good faith:**
- 16. The principle of responsibility:**
- 17. The impact of other principles of European law on administrative law?**