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Birth and Growth of French Administrative Law

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La presentazione tradizionale del diritto amministrativo francese riteneva che fosse innanzitutto il prodotto della giurisprudenza sviluppata dall'inizio del XIX secolo dal Conseil d'État istituito nel 1799. Contrariamente alla narrazione tradizionale, il diritto amministrativo esisteva fin dal XIV secolo; non si limitava a proteggere gli enti e gli uffici pubblici, ma proteggeva anche gli individui, come è stato ulteriormente sviluppato dal diritto amministrativo "adulto". Dopo la Rivoluzione, il diritto amministrativo si è sviluppato principalmente come giurisprudenza del Conseil d'État. L'articolo illustra le principali caratteristiche del diritto sviluppatosi a partire dal XIX secolo, il contributo del mondo accademico a tale sviluppo e fornisce dettagli sull'ambito di applicazione, gli strumenti e i principi del diritto amministrativo francese, compreso l'impatto della costituzionalizzazione e dell'europeizzazione.

The traditional presentation of French administrative law held that it was first and foremost the product of the case law developed since the beginning of the nineteenth century by the Conseil d'État established in 1799. Contrary to the traditional narrative, administrative law existed since the fourteenth century; it was not merely protecting public bodies and offices but also protecting individuals, as was further developed by "adult" administrative law. After the Revolution, administrative law has mainly developed as judge-made law by the Conseil d'État. The article explains the main features of the law that developed since the nineteenth century, the contribution of academia to that development, and gives details about the scope, tools and principles of French administrative law, including the impact of constitutionalisation and Europeanisation.

Administrative Law.- 5. Scope, Tools, and Principles of Administrative Law in Adulthood.- 6. Constitutionalisation and Europeanisation of Administrative Law.- 7. As a matter of conclusion, where are we?

1. A change in narratives

The subtitle of the symposium organised by AIPDA on 'Birth and Growth of Administrative Law in May 2025 was "Perception and Reality"[1]; as far as France is concerned, we should rather speak of "changes in narratives". There is an abundant literature on the so-called "paradox of the observer" according to which the researcher influences what he observes, even in quantum physics[2]. The same phenomenon obviously applies to French administrative law. The choice of the points which will be developed here is due on the one side to the fact that I started being interested in French administrative law fifty five years ago when I was in the second year of *licence en droit* at Paris II University, and on the other that I have been busy with comparative administrative law since I started researching for my PhD in law[3] a few years later.

In the last half of the twentieth century, the traditional presentation of administrative law in French university teaching and textbooks was based upon the assumption that this branch of law was first and foremost the product of the case law developed since the beginning of the nineteenth century by the *Conseil d'État* (State Council both supreme administrative court and counsel do the government in legal matters) established in 1799.

As far as I'm concerned, studying the legal systems of the Member States of the European Communities enabled me to understand that the notion and content of administrative law was quite variable from one system to another. As I keep writing[4], in line with Michel Fromont's taxonomy[5], the use of the term "administrative law" is often linked to the idea that it refers to a particular system of law, reasoning outside of "ordinary law", i.e. mainly civil and criminal law. The difficulty, in comparative law, lies precisely in the fact that the delimitation of what is called administrative law varies from one legal system to another, and does not correspond simply to the law applicable to the activities and organisation of public administration – assuming that public administration is

more or less easy to define and similar from one country to another. In comparative law, we may identify at least five groups of administrative laws with differences in scope as well as definition.

According to Fromont, the administrative law groups in European countries are: the "French group" (France, Netherlands, Belgium, Italy, Greece), the "German group" (Germany, Austria, Switzerland, Poland), the "half-French, half-German group" (Spain, Portugal, Sweden, Finland), and the "British group" (Great Britain, Ireland – as well as Cyprus and Malta – Denmark and Norway). Fromont's taxonomy can be disputed at the margins: personally, I would tend to place Italy in the "half-French, half-German" group because of the central place of the concept of subjective rights in Italian administrative law and of the conceptual importance of non-contentious administrative procedure (*procedimento amministrativo*) in that law. It is also important to emphasise, as Fromont himself does, that Danish and Norwegian law are in no way part of the common law family, even though they share a number of characteristics that bring them closer to British and Irish administrative law, whereas Finnish and Swedish law are decidedly closer to German and French law. Fromont's taxonomy allows to include the administrative law systems of the Member States that have acceded since to the EU 2004: Malta and Cyprus in the "British group"; Croatia, the Czech Republic, Hungary, Slovakia, Slovenia, and perhaps Estonia, Latvia and Lithuania in the "German group"; Bulgaria and Romania maybe in the "French group". This taxonomy is currently the most satisfactory that has been proposed for the administrative law of EU countries. In particular, it avoids the trap of the Common Law / Romano-Germanic Law dichotomy. The simplistic opposition between these two families – currently used in private law comparison – is totally inaccurate in public law; furthermore, its ill-considered use has caused considerable damage, particularly because it too easily leads to legal chauvinism. Looking beyond European countries, the inclusion of a fifth group of administrative laws, characterised by that of the United States of America, clearly demonstrates the absurdity of a Civil Law/Common Law divide in administrative law. US public law is based on a written constitution, whereas that of the United Kingdom is based on customary constitutional principles. It should be recalled that French administrative law was primarily developed by judges, as in the case of English and US law. This being said, the administrative

laws falling within these groups are marked by great differentiation not only between the groups, but also within them, the point of convergence being the existence of a law of administrative litigation distinct from civil or commercial judicial litigation.

When it comes to the birth and development of administrative law, other taxonomies might be developed on the basis of this symposium and of recent research[6]. On the one hand, as is shown by the cases of England and France, but also to a large extent of Germany and Italy, the content of administrative law started to develop both in written law and in case-law already soon after the legal systems of the middle-ages were overcome; on the other hand there has been a mutual inspiration between countries, as shown especially since the end of the nineteenth century with the role of Otto Mayer in the scholarly construction of German administrative law on the basis of the French example, as well as by the inspiration that Portuguese and Spanish courts, among other, drew from the *Conseil d'État*'s jurisprudence ; let us not forget that in the UK the Judicial Committee of the House of Lords also drew inspiration from its contacts with the *Conseil d'État* since the mid nineteen sixties[7].

comparative history of administrative law tells us is that the content of administrative law far from being a strictly national set of principles, rules and precedents, is a field that allows for comparison, even though there are obviously characteristics that remain specific to a national system.

2. The Birth of French Administrative Law: 1799, 1806 or rather the fourteenth Century?

Until recently, the narrative about the history of French administrative law went as follows[8].

The starting point was the Constitution of 13 December 1799 (*Constitution de l'an VIII*) , which established the *Conseil d'État*. As synthetised in the Encyclopaedia Britannica the «*Coup of 18–19 Brumaire, (November 9–10, 1799), [is the] coup d'état that overthrew the system of government under the Directory in France and substituted the Consulate, making way for the despotism of Napoleon Bonaparte. The event is often viewed as the effective end of the French Revolution*»[9]. According to Article 52 of the new Constitution «*Under the*

direction of the consuls, a council of state is charged with drawing up projects of law and regulations of public administration, and with the settlement of difficulties which arise in administrative matters»[10] (my emphasis). As a matter of fact, it seems that Napoléon always adopted the proposals of the *Conseil d'État* for the settlement of disputes with the public administration.

A fundamental complement to art. 52 of the Constitution was the Law of 17 February 1800 establishing the administrative organisation of France's territory with 4 levels: *département, arrondissement, canton, commune* – the list of which remained without any change until 1926. *Départements* and *communes* had already been set up earlier during the Revolution, which abolished the territorial organisation of the *Ancien Régime* that consisted in a patchwork of different bodies amongst which provinces, cities, and others, which had many distinct types of organisations and powers. The *communes* of the Revolution were organized on the basis of the existing parishes of the Catholic Church.

Of particular importance for the development of administrative law were the provisions of the law of 17 February 1800 that established the *Préfet* as representative of the State in the *département*, and the *Conseil de préfecture*, a consultative body flanking the *Préfet*, in charge of adjudication relating to direct taxation, public procurement, claims by individuals against public works contractors in connection with such works, and the authorisation for municipalities to bring legal proceedings and disputes relating to national property (*biens nationaux* – which had been confiscated by the Revolution from nobility and the Church). Their decisions could be appealed to the *Conseil d'État*, which was also preparing the adjudication by the Consul/Emperor on any other public litigation.

The narrative follows with syntheses of the *Conseil*'s jurisprudence, with a focus on the difference between management acts (*actes de gestion*) where a private interest of the relevant body is at stake, and an act of authority (*actes d'autorité*) where a public interest is at stake. The narrative focuses also on the transition from "retained justice" to "delegated justice" with the Law of 24 May 1872, which provided that the *Conseil d'État* was deciding in the name of the people, and not simply making a proposal to the Head of State.

The traditional third step of the traditional narrative focuses on the recognition of autonomy of administrative law in relation to civil and commercial law by the

Blanco judgement of 8 February 1873[11] of the *Tribunal des conflits*, a joint body composed of equal number of members of the *Conseil d'État* and the *Cour de Cassation,* in charge of determining whether a dispute should be settled by an administrative court or an "ordinary" court (civil or criminal).

In short, according to the traditional narrative, administrative law is a product of the Revolution of 1789, submitting public administration to the rule of law. The elements of the narrative are not at all wrong as far as the development of administrative law since the end of the eighteenth century is concerned, but the narrative needs to be challenged as far as its birth is concerned.

As demonstrated by Alexis de Tocqueville in *L'Ancien Régime et la Révolution*, published in 1856[12], there is much more continuity in French institutions than the terminology and history of the Revolution of 1789 would suggest. Tocqueville, who was a civil judge, is well known for his criticisms of the *Conseil d'État*, which he characterised as an illiberal body in *De la démocratie en Amérique*[13], first published in 1835 and 1840. However, Tocqueville did not blame the Revolution for the existence of the *Conseil*. It suffices to read the Table of content of Book II of *L'Ancien Régime et la Révolution* to understand that the traditional narrative which has been recalled here had to be challenged:

«*Chapter II: That we owe "administrative centralisation" not to the Revolution, as some say, but to the old regime; Chapter III: That what is now called "the guardianship of the state" (tutelle administrative) was an institution of the old regime; Chapter IV: That administrative tribunals (la justice administrative) and official irresponsibility (garantie des fonctionnaires) were institutions of the old regime; Chapter V: How centralisation crept in among the old authorities, and supplanted them without destroying them*».

Indeed, several scholars have challenged the traditional narrative. First, it is essential to refer to Pierre Legendre (15 June 1930 – 3 March 2023), a remarkable French historian of law as well as psychoanalyst, who taught at Paris 1 Panthéon-Sorbonne and at the École pratique des hautes études. Legendre published i.a. two quite influential handbooks on the history of French administration and administrative law at the end of the nineteen sixties[14]. One of his most interesting works for the purpose of our theme is to my view an article on "The historical fabric of systems (Notes for a comparative history of French administrative law)"[15]. A single quotation of the article's introduction is showing how Legendre

was analysing our topic.

«*Napoleon's work was illusory in one significant respect: administrative legislation. Irreducible to the postulates of the Codes, it raised once again insoluble questions and age-old dilemmas that remained unresolved. Codification was essentially based on establishing a fairly clear boundary between the state and private rights (family, property, contracts) and defining civil liberties. But what about the administration? How could political freedoms be reconciled with the collective demands of a repressive and paternalistic monarchical state? It would not be enough to briefly regulate disputes over taxation or expropriation. The stakes were much higher: to tame the state, subject the bureaucracy to the law, and at the same time ensure the economic and social power of the administrative function in an industrially backward country that was, moreover, highly averse to liberal capitalism and periodically shaken by fierce civil war. The advent of administrative law is part of this fateful history. Bringing order to an enormous body of regulations, imposing a new form of legality and promoting, within the administrative system itself, the institution of judicial review, reconfiguring the political concepts of freedom and equality, and finally confronting the defensive network of university lawyers who were initially hostile to administrative and political science, this considerable task was accomplished over the course of a century, through a process that is now little known and dangerously forgotten. I will attempt here to provide a new approximation of this process, following an initial attempt*»[16].

About fifteen years later, a handbook of Historical Introduction to French administrative law[17], which was dedicated to the evolution of French public administration from the Middle Ages to the end of the *Ancien Régime*, was published by Jean-Louis Mestre, a professor of history of law at the University of Aix-Marseille. As indicated on the back cover: «*Starting with the foundations of administrative rules, marked by the feudal system and its customs on the one hand, and by the contribution of Roman law on the other, he then describes how these rules were consolidated under the influence of the development of municipalities on the one hand, and of the state administration serving the monarchy on the other*». Legendre, in his works quoted above, was adding a third important source i.e., the law of the Catholic church, which had an important impact on procedure. Mestre had defended his PhD dissertation on "Litigation in the communities of

Provence: administrative law at the end of the Ancien Régime" in 1973[18]; and he is the author of more than fifteen articles that are relevant to the history of administrative law also in later times. Mestre is also author of a chapter in German language on State, Administration and Administrative Law in France, published in Volume III of the *Ius Publicum Europaeum* series, which is proposing a historical synthesis in six pages[19].

Two other handbooks which cover the same timespan from the end of the Middle Ages to the present day have been published more recently and are easy to find. Marie-Hélène Renaut published a concise handbook on the History of Administrative law[20] and Katia Weidenfeld, on the History of Administrative Law from the Fourteenth Century to our times[21]. Both are professors of history of law, like Legendre and Mestre, and Weidenfeld is also a judge at the *Tribunal administratif de Paris* since 2023. In France, the recruitment and career of university professors in law is organised in three "sections" – private law, public law, and history of law –, which means that legal historians have a solid education in the methods of historical research, differently from private or public lawyers.

To cut a long story short, it should be clear nowadays that although the expression administrative law (*droit administratif*) has not been used before the beginning of the nineteenth century, there were a series of public bodies and offices since the 14th Century, both from local government such as towns and provinces etc and from the King's administration, which exercised typical rulemaking and adjudication powers. As for the latter a progressive judicialization had taken place, and from 1789 to the mid-19th century there were back and forth movements which eventually crystallised in what I call adult administrative law in the nineteenth century. Furthermore, contrary to the traditional narrative, the pre-revolutionary administrative law was not merely protecting public bodies and offices, but also protecting individuals, as was further developed by "adult" administrative law.

It needs also to be stressed that the word "*administration*" has been used by courts (*cours souveraines*) instead of "*police*" from 1756 onwards. The terms "*droit administratif*" have started to be used 50 years later.

3. The Growth of Judge Made Administrative Law

What is common to both narratives is the importance of judge made law in the birth and development of administrative law.

Long before the establishment of the *Conseil d'État* and *Conseils de prefecture* in 1799-1800, there was an important number of bodies which adjudicated on litigation regarding the application of laws, regulations and decisions relating to the exercise of typical administrative powers. This was accompanied by adjudication by administrative bodies reviewing decisions of lower bodies. There was also a system of appeals. N.b. there is still nowadays an important number of special administrative commissions with adjudicating powers, such as for instance the disciplinary commissions of public universities, the decisions of which may be appealed to the disciplinary section of the National Universities Council (*Conseil national des Universités*) and those of the latter to the *Conseil d'État* through the *recours en cassation.*

A few complementary remarks need to be made.

First, judgements of that ancient period are not yet digitised in France – differently from England [22] – hence scholarship has to rely on classical history research methods such as on-the-spot study of archives. Let us also recall that while the population of the Kingdom of England was roughly of four million in 1550, that of the Kingdom of France was at the same time of about nineteen million [23]. At the time of the French Revolution the numbers were about ten end a half million for England, Wales, and Scotland [24], with a territory of 228□968 km^2 and for the France more than twenty-six and a half million [25], with a territory of about 550 000km^2.

Second, reports of a selection of the *Conseil d'État*'s rulings have been published from 1821 onwards on the private initiative of Louis-Antoine Macarel – the reports were later known as the "*Recueil Lebon*" – ; this initiative has been preceded by another of Jean-Baptiste Sirey: *Jurisprudence du Conseil d'État depuis 1806*. None of these reports are comprehensive of all judgments.

The jurisdiction of the independent "sovereign courts" (*cours souveraines*) of the *Ancien régime* has been more and more limited in administrative matters from 1407 onwards, to the benefits of *Intendants* – delegates of the King, predecessors of the modern "*préfets"* – and of the King's Council (*Conseil du Roi*) which was

structured in specialised bodies that were predecessors of the modern *Conseil d'État* and Court of auditors (*Cour des comptes*).

According to the earlier cited literature, during the *Ancien Régime* the adjudicatory system functioned in a quicker and cheaper way than that of sovereign courts. It was open to appeals by single persons and balanced the interests of the latter and those of administration. The adjudicatory system thus slowly developed into quasi-judicial review. Sovereign courts' adjudication on administrative matters was definitively banned by laws of the Revolution (*loi des 16 et 24 août 1790*). The reason for this ban was that the *Parlements* – sort of provincial appellate courts, of which there were thirteen at the end of the *Ancien Régime* – had been strong opponents to the economic and social reforms promoted by the Monarchy during the reigns of Louis XV (1715-1774) and his successor Louis XVI (1754-1793). This had been especially the case of the *Parlement de Paris*, which was covering two thirds of the Reign's territory. *Parlements* had a very strong power to oppose the Crown, as royal decrees only entered into force after being registered by the *Parlements*, which verified their compatibility with local law, customs, and traditions, and also had regulatory powers. The membership of the *Parlements* was a monopoly of the nobility who owned their offices, which they could transmit to their heirs or alienate at their own will. Tocqueville, in *L'Ancien Régime et la Révolution*, noted that nowhere in Europe there was such an independence of members of the courts as in France. Modern grounds for annulment were established since the fifteenth century: lack of competence, procedural irregularity, illegality, failure to pursue the common good or a general interest (i.e. misuse of power). The reader will recognise the grounds of annulment by the Court of Justice of the EU as established in Article 263 TFEU.

As stressed especially by Legendre in his article cited above, there has been no codification of administrative law during the time of Napoleon, contrary to civil law (*Code civil* 1804 and *Code de procedure civile* 1806), criminal law (*Code pénal* 1810) and commercial law (*Code de commerce* 1807 – with a predecessor in 1673).

All this explains why administrative law has mainly developed as judge made law by the *Conseil d'État*, except for the law of administrative organisation: the structures of the State, of local and regional authorities (*commune, département*

and *région* since 1972) as well as autonomous bodies (*établissements publics*) have always been established by the constitution and by acts of parliament until 1958, and since then by acts of parliament or government decrees. The law of the civil service has been for a long-time judge made, until codification with the infamous law of Pétain in 1941 and later by the *Statut général de la fonction publique* in 1946.

This being said, French administrative law has never been solely case law, as we saw with the establishment of the *Conseil d'État* and *Conseils de préfecture* in 1799-1800 by the Constitution and statutes. As far as the procedure of judicial review is concerned, we have to mention especially the Decree of 2 Novembre 1864 on the procedure before the *Conseil,* which led to a general theory of judicial remedies.

More than one century later, there has been a general codification of the judicial procedure of administrative courts with the *Code des tribunaux administratifs* of 1973 and the *Code de justice administrative* of 2000, which applies also to the *Conseil d'État* and the *Cours administratives d'appel.* More recently we have to mention French administrative procedure Act (*Code des relations entre le public et l'administration*) of 2015.

The major features of judge made administrative law in France can be summarised as follows.

The first and foremost feature that stems from judge made law is the autonomy of administrative law as opposed to civil, criminal, and commercial law. The *Blanco* judgement of the *Tribunal des conflits* of 8 February 1873 established that the *Code civil* was not applicable to the activities of administrative bodies. As a matter of fact, this has never impeded the *Conseil d'État* from applying solutions of the Code when it deemed it appropriate, but without ever formally referring to the relevant written provisions.

The second feature is the importance of general principles of law (*principes généraux du droit*) as a source of administrative law. In France, general principles of law have first and foremost been identified and used by the *Conseil d'État*. To my knowledge, the first judgement of the *Conseil* that used the wording «*general principle of French public law*» (*principe général du droit public français*) was *Sieur Legillon*, 17 Novembre 1922[26], regarding the secrecy of deliberations in judicial assemblies.

The *Conseil* started to expressly use the wording «*general principles of law which apply even in the absence of a written provision*» (*principes généraux du droit applicables même en l'absence de texte*) with *Aramu*, 26 October 1945[27]. This being said, the *Conseil* already applied the concept in its case law at least since it became formally a court judging in the name of the people in 1872, as explained above. The main reason, to my mind, is that the *Declaration of the Rights of Man and Citizen* of 1789 was not formally in force during the third Republic (1870-1940); therefore, the *Conseil* used its content without expressly referring to the text. As Edouard Laferrière – who was chairing the judicial section of the *Conseil d'État* since 1879 – wrote in his *Treatise on administrative jurisdiction and contentious appeals* published 1887[28], the *Conseil*'s judgements «*are based, when written provisions are missing, on traditional principles, written or not, that are somehow inherent to our public law and administrative law*»[29]. Indeed, the *Commissaires du gouvernement* (which have served as model of the CJEU's AG) already often referred to *general principles of our law* since that period. After *Aramu*, the French administrative courts more and more often referred explicitly to principles that the *Conseil* expressly qualifies as *principes généraux du droit*.

The third feature that stems from judge made law is the growing protection of individuals against administrative discretion. This contradicts the idea – too often expressed in literature – that the *Conseil d'État*, being formally part of the executive branch of government, sees its role as safeguarding the interests of public administration[30]. It has to be stressed that already during *Ancien Régime*, for the reasons explained above, administrative justice had developed more and more this protective function. The *Conseil* had also an active role in pushing the legislator to consecrate protective principles that itself had been applying. A significant example is the law of 17 July 1900 which generalised the rule according to which silence of public authorities for more than four months (nowadays two) meant refusal of the requested action, hence opening the possibility of judicial appeal in case of inaction of authorities.

The fourth feature that stems from judge made law is the importance of studying case law in the education in administrative law, much more than in civil, criminal, or commercial law, where the starting point is usually the relevant code. This feature is illustrated by the success of the casebook of Long, Weil et Braibant, *Les grands arrêts de la jurisprudence administrative*, first published in

1956, which has reached its 25th edition in 2025[31]. The success of that textbook has led to the publication of other "*Grands arrêts*" in the different fields of public law, in EU law[32], and also, more recently in civil law[33].

4. The Contribution of Scholarship to the Growth of Administrative Law

Contrary to what is often indicated in French and comparative literature, scholarship has made an essential contribution to the growth of French administrative law, not only through commentaries of the *Conseil d'État*'s case law, but also through broader attempts to systematise the law applicable to public administration. This has been especially important in the first half of the eighteenth century, when administrative law had to gain distinction in legal science, as well as from the period which followed the law of 1872 to the nineteen thirties. True, contemporary scholarship only rarely indulges in the kind of systematisation that is characteristic of Italian and German scholarship.

There are a two specific features of French administrative law scholarship.

First, administrative judges have always made a substantial contribution to literature, paving the way to academic work. A number of handbooks and textbooks published by members of the *Conseil d'État* are to be mentioned, especially those of the three founding fathers.

Joseph-Marie de Gérando (1772-1842) had been appointed to the *Conseil* in 1808. In 1819, he became the first holder of the chair in public and administrative law at the Paris Law Faculty. His *Institutes de droit administratif*[34], a six-volume treatise published in 1828-1836, was the first attempt of systematisation of the discipline. He synthetized his thinking by the formula «*It is an illusion to believe that there are mysteries in administration. There are only principles*»[35].

Louis-Antoine Macarel (1790-1851) was first a practicing lawyer to the *Conseil,* of which he became a member in 1830. In 1821 he founded the collection of reports of cases which later became the famous *Recueil Lebon*. In 1842 he was Gérando's successor at the chair of the Law Faculty. He published a *Cours de droit administratif*[36] in four volumes in 1842-46, where he organised the content according to the aims pursued by administrative action.

Louis-Marie de Cormenin (1788-868) is the better known of the three founding fathers. He was first a practicing lawyer in 1808 and was appointed to the Conseil in 1810. In 1822 he published the first edition of his treatise *Questions de droit administratif*[37] which was later called *Droit administratif*[38] with his fifth and latest edition in 1840. Cormenin was the first to recognise the normative power of administrative case law, arguing that judges must compensate for the imperfections of legislation resulting from a tangle of texts described by him as "monstrous". His work is the first attempt of systematisation of the principles established by the *Conseil*.

Two other names have to be mentioned for the nineteenth century. Léon Aucoq (1828-1910), who was educated at the ephemerous *Ecole d'administration* established after the Revolution of 1848, entered the *Conseil* in 1852. He taught administrative law at the *École des ponts et chaussées*, from 1865 onwards. This school of engineers, specialised in the construction bridges and roads, had been established in 1747 and is a symbol of French public administration, in a country which had a very vast territory where the King's administration was in charge of building and maintaining the essential communications networks. This is why the engineers were not only educated in the scientific fields indispensable to their future work, but also in law: the administrative bodies which were replaced by the *Conseils de préfecture* had soon started to develop a caselaw on liability for the malfunctioning of those public works, which was systematised by the *Conseil d'État*. They did this in a way that was different from the application of principles of the *Code civil* and the practice of civil courts, especially by a reversal of burden of proof of the causal link between the work and the damages caused to single persons. Aucoq did not only teach that part of administrative law but held more generally *Conférences sur l'administration et le droit administratif*[39], which were published in 1869, 1870 and 1876. He was the first to propose a classification of procedures of administrative adjudication and of a theory of public service applicable to the definition of public works.

Alexandre-François Vivien (1799-1854) was first *Préfet de Police* of Paris in 1831 and became member of the *Conseil* in 1843 and its President in 1845. He is considered as the founder of administrative science in France, especially with the publication of his *Études administratives*[40] in 1845. It is noteworthy that in the competitive examination to become full professor of public law (*agrégation de*

droit public) the exam in administrative law is officially entitled "*droit administratif et science admnistrative*." Vivien's book is particularly useful in order to understand how the French civil service was organised at that time.

Second feature, administrative law scholarship is not only constituted by members of the *Conseil*: academics have also played a considerable role in the scientific systematisation of the field. Two famous names need to be cited as they have had a fundamental influence on the development of French administrative law and constitutional law as a scientific discipline with international standing. It suffices to mention here that Duguit was invited to hold conferences at Columbia University in New-York in 1920-1921 and that a major book of his was translated in English; and that Hauriou had a considerable influence on Santi Romano in Italy and on Carl Schmitt in Germany with his theory on the institution. Both have had a considerable influence on public law scholarship and on the jurisprudence of the *Conseil* for at least sixty years. From the end of the nineteenth century to the nineteen sixties all law students heard about them, and many read them during that period, and all administrative judges were well aware of their theories and comments.

Maurice Hauriou (1856-1929) and Léon Duguit (1859-1928) won the competitive examination for full professor in law (*concours d'agrégation*) in the same year, 1882 – at the time there was a sole *concours* for private law, public law, and legal history. Hauriou made his whole career at the Faculty of Law of Toulouse, where he had studied; he held the chair of administrative law from 1888 onwards and was elected Dean in 1906, a position that he held until retirement in 1926. Duguit studied at the Law Faculty of Bordeaux, taught first in Caen from 1882 to 1886 and then held a chair of constitutional and administrative law in Bordeaux, where he was elected Dean of the Law Faculty in 1919, which he remained until his death. Duguit had frequent contact with Émile Durkheim (1858-1917), who is considered as the founder of French sociology, who studied and taught in Bordeaux – where Duguit had frequent contact with him – and at the Faculty of humanities of Paris from 1906 onwards. Duguit was therefore influenced by sociological analysis.

Both Hauriou and Duguit published handbooks of administrative and constitutional law where they systematised the discipline; they also published numerous books and papers, as well as very many comments to judgements of

the *Conseil d'État*, establishing a constant dialogue between its members and academia. They were also involved in practice by giving advisory opinions. Duguit remains famous as one of the applicants in *Croix de Ségué Tivoli* 21 December 1906[41], where he led the *Conseil* to draw conclusions from the recognition of the regulatory nature of certain contract clauses, such as concession contracts: since these clauses may give rise to obligations towards third parties to the contract, *Conseil d'État* accepted that, in return, these third parties may rely on them and request the administrative authority to ensure that they are complied with. This judgement is also famous because the *Conseil* opened standing to associations.

Hauriou and Duguit built diverging theories of administrative law, which dominated the academic debates until late in the twentieth century. For Hauriou, which was the founder of the school of "*puissance publique*" (public power), administrative law id defined by its means, i.e. the use of public authority, which is based on the fact that the state is the institution that exercises sovereignty. For Duguit, founder of the school of "*service public"*, administrative law is defined by its function i.e. an activity of general interest provided by a public entity or under its control. In the introduction to his book of 1913 "*Les transformations du droit public droit public"*[42], which was translated in English six years later by Frida and Harlod Laski, Duguit synthetised his thinking by the words:

«*So it is that the idea of public service replaces the idea of sovereignty. The state is no longer a sovereign power issuing its commands. It is a group of individuals who must use the force they possess to supply the public need. The idea of public service lies at the very base of the theory of the modern state. No other notion takes its root so profoundly in the facts of social life*»[43].

Duguit considered public service to be the foundation and limit of governmental power. The school of *service public*, as far as admnistrative law is concerned, was supported in a certain sense on the *Blanco* judgement of 8 February 1873 of the *Tribunal des conflits*.

Each theory had deep consequences in terms definition, role, and functions of the state and public bodies, and of the scope and extent of judicial review. The debate between the two schools dominated scholarship until René Chapus tried to reconcile them in 1968 by defining «*administrative law, law of the public service; administrative litigation, litigation involving public authorities*» (*droit*

administratif, droit du service public; contentieux administratif contentieux de la puissance publique)[44].

After the golden age of scholarship embodied by Duguit and Hauriou, scholarship was less interested by theorisation of administrative law in terms of major constructs. One may nevertheless recall the debate between Georges Vedel (1910-2002) and Charles Eisenmann (1903-1980) – translator of Kelsen's *Reine Rechtslehre*[45] – about the constitutional basis of administrative law, which derives from the definition of administrative law. I will come back to this later.

René Chapus (1914-2017) – whose teaching I followed during three years at the Université Paris II – Panthéon Assas – was a very distinctive scholar: his handbook "*Droit du contentieux administratif*", which had thirteen editions from 1982 to 2008 is the only academic work that was given to newly appointed members of the *Conseil d'État* because of its exhaustive character in analysing its jurisprudence; his handbook "*Droit administratif général*", which had fifteen editions from 1985 to 2001 was considered an essential reference work until at least 2015. Differently from Duguit or Hauriou, Chapus was not presenting an overarching general theory of the state, of public law and administrative law, but it does not mean that he has not developed his own theory of administrative law, based not only on the jurisprudence but also on the evolution of legislation and more generally of French society[46].

Las but not least, I think that it is important to mention Georges Dupuis (1932-1999), who taught administrative law in a way that constantly included considerations of administrative science, in line with the tradition inaugurated by Vivien one century earlier, and especially a study of the administrative organisation[47]. Dupuis had an important influence on the education of numerous cohorts of students of the *École nationale d'administration*, where he was Director of studies from 1970 to 1976.

5. Scope, Tools, and Principles of Administrative Law in Adulthood

What I call adulthood of French administrative law covers the developments from the *Belle époque* (end of the nineteenth century) to present day, or, in terms of constitutional law the Third (1875-1940), Fourth (1946-1958) and Fifth

Republic (since 1959). The following only sketches out the features of modern administrative law, which would obviously need much more than an article like the present one to be fully explained.

The scope of French administrative law is quite broader than in most other industrialised countries, as is reflected by the scholarly definitions discussed above.

First, administrative law applies both to public authority decision making and its organisation, like in most other systems, but also of to the public service, a concept which is not to be misunderstood as the sum of public services or utilities. I must however underline that only public services which have an administrative function – including education and public health – are submitted to administrative law, whereas so-called *services public industriels et commerciaux* are submitted to civil and commercial law, as decided by the *Tribunal des Conflits* in "*Bac d'Eloka*" 1938[48]. This broad scope results to a considerable extent from the *Blanco* judgment of 1873 cited above, but the roots of law of public services were already laid during *Ancien régime*. I have to specify that public services may also be exercised by private natural or legal persons, in which case administrative law still applies, with judicial review by administrative courts and the *Conseil d'État*[49].

Second, the law of expropriation for public use, again rooted, in the *Ancien régime* is mainly a matter of administrative law, although the amount of compensation for expropriation is settled by civil courts.

Third, and this is maybe the most original feature of the scope of French administrative law, judicial review applies not only to single case decision making (*actes administratifs individuels*), but also to rulemaking (*actes réglementaires*) including government decrees. It applies also to most contracts between public administrations and private persons (*contrats administratifs*); this again has roots that started long before the Revolution. Therefore, French administrative law scholars and judges know how to deal with all aspects of contacts: awarding, managing, and ending them. Administrative law includes also the law of public liability, here again since long before the Revolution, especially due to importance of roads and bridges, but not only. The regime of administrative liability applies to the functioning of public bodies and public services, and it extends since *La Fleurette*, 1938[50] to liability for acts of Parliament, as will be

explained below.

Fourth, administrative law applies to all aspects of public property (*domaine public*). It also applies to employment by public authorities, be it as permanent civil servants (*fonctionnaires*) or employees under a contract (*contractuels de* l'*administration*) differently from the German tradition where *Beamte* are employed under public law whereas *Angestellte und Arbeiter* are employed under labour law. This also was applicable since long before the Revolution.

As far as the tools of administrative law are concerned, a number of specific features of French administrative law have to be highlighted.

First, the French concept of *acte administratif* is much broader than that of administrative act in most other legal systems. It covers not only individual decisions (*actes individuels unilatéraux*), but also all acts of general application (*actes réglementaires*) including government decrees, and contracts, which are considered as synallagmatic administrative acts. All those acts are normally submitted to judicial review by administrative courts, with the gradual abandonment of the theory of "*actes de gouvernemnent*", which nowadays exempts from judicial review by administrative courts only acts adopted in the relationship between the government and parliament, and in the exercise of diplomatic relations.

Also, long before public private partnerships became fashionable, French administration made an important use of *concessions de service public* and c*oncessions de travaux publics* to ensure services for the population and the building and maintenance of roads, bridges, and other public works by private businesses. One original feature of French public administration is since three centuries the importance of engineers in the civil service, which ensure that public authorities have the necessary expertise to draw detailed specifications of the duties of the private contractors and to supervise their work.

As far as principles of administrative law are concerned, the first and foremost one is without any doubt the subordination of administrative authorities to the rule of law, including political decisions of the government since *Prince Napoléon* 1875[51] and thus the possibility of judicial review for all their actions and failure to act. I have to stress again that traditionally the *Conseil d'État* has been balancing protection of individuals' rights and freedoms, efficiency of the public service and protection of public interest. Since 1872, especially the presence of members

of the *Conseil* with a strong commitment to liberal ideas, like Edouard Laferrière (1841-1901), Léon Blum (1872-1950) or René Cassin (1887-1976), to mention only a few ones, has had a strong impact on its jurisprudence in favour of the protection of civil liberties and human rights.
Second, the *Conseil d'État* has developed a very broad understanding of standing. On the one side the *Conseil* does not require that an association with legal personality be already constituted: it admits also that groupings of persons present an appeal if they can prove that they have an interest in the matter. Therefore, the Arhus Convention of the United Nations on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters[52] did not have an important impact on standing in France in environmental matters. Since *Casanova*, 1901[53], any inhabitant of a local authority paying taxes to its budget has standing to ask the relevant administrative court to review acts that have an impact on its budget.
Third, the administrative courts and especially the *Conseil d'État,* make extensive use of general principles of law, as already mentioned and of constitutional law.
Fourth, the principle of equality, consecrated by the Declaration of 1789 is very extensively used, with different fields of application. It applies to public employment, especially to judicial review of competitive examination (concours)[54]. Maybe more importantly, the *Conseil* has developed a principle of objective liability that is not based upon negligence (*faute*), namely liability for breach of equality before public burdens (*responsabilité pour rupture d'égalité devant les charges publiques*) in the case of damages that impact more on some persons than others. This explains *La Fleurette*, 1938, cited above. Hence the jurisprudence developed by the CJEU with *Francovich and Bonifaci*, 1991[55] was not considered as revolutionary in France.

6. Constitutionalisation and Europeanisation of Administrative Law

When I started studying administrative law in my second year at university, my instructors quoted in French the famous phrase of Otto Mayer *Verfassungsrecht vergeht Verwaltungsrecht besteht* (constitutional law changes, administrative law remains) to signal that the constitutional instability from the 1799 to 1958 did

not very much impact upon administrative law.

Georges Vedel, who taught us administrative law, was famous for his article published in 1954 on "The constitutional bases of administrative law"[56], which triggered a controversy with Charles Eisenmann[57]. As a matter of fact, there had always been a basis for administrative law in constitutional law, discussed i.a. by Duguit[58]. Vedel, who has been a member of the *Conseil constitutionnel* from 1980 to 1989, insisted on making it clear to students that public law was a whole, that included administrative and constitutional law[59].

The adoption of a new constitution in October 1958 has indeed had a quite important impact on the relationship between constitutional and administrative law in practice. A number of provisions of the new constitution clearly bear the hallmark of the *Conseil d'État*: Michel Debré who was minister of justice in de Gaulle's government June 1958- January 1959 and Yves Guéna, director of Debré's *cabinet*, had a strong influence on many provisions, and the first draft was submitted to the *Conseil d'État* as is usual for bills submitted by the executive. Academia had also a significant role, especially with François Luchaire, a professor of public law who was advisor to the *Présidence du Conseil* (office of the head of government). Two sets of provisions are particularly important for the point which I'm making. The new (formalistic) definition of *la loi* underlines that it is an act adopted by Parliament. Article 34 establishes a list of fields which may only be regulated by acts of parliament, which means that other fields may be regulated by decrees. The delimitation between the fields of statutes (*loi*) and regulatory acts (*règlements*) has therefore become a fundamental topic both for constitutional law and administrative law, leading to a kind of dialogue between the *Conseil d'État* and the *Conseil constitutionnel*. As far as scholarship is concerned, those issues are examined and discussed as well by specialist of constitutional law as of administrative law.

Even more than constitutionalisation, Europeanisation has had a profound impact on French administrative law. As for the other five founding member states, this impact has not been immediately perceived, apart by those lawyers who were involved in the development of the European Communities, such as the academics René Cassin, Paul Reuter, Pierre-Henri Teigten and Georges Vedel, as well as Jean Boulouis, and a number of members of the *Conseil d'État* amongst which the first were René Cassin and Maurice Lagrange.

René Cassin (1887-1976) became professor of private law after the *agrégation* of 1920. He was appointed Vice-President of the *Conseil d'État* after the *Libération* in 1944, a function he held until 1960 (the v. p. has always been functionally the chairman of the *Conseil*). Cassin was the rapporteur of the group which drafted the UN Declaration of Human Rights of 1946. He was the first French judge at the European Court of Human Rights from 1959 to 1976.
Paul Reuter (1911-1990) became professor of public law after the *agrégation* of 1938 and participated in the team of Jean Monnet which prepared the Schuman Declaration of 9 May 1951, and later in the team of experts who negotiated the ECSC Treaty. He was also *juriconsulte* of the French Ministry of foreign affairs and represented France in the first case decided by the Court of Justice of the ECSC[60]. Pierre-Henri Teitgen (1908-1997) became professor of public law after the *agrégation* of 1936 and was among others a member of the parliamentary assemblies of the ECSC and of the Council of Europe, where he was *rapporteur* for the draft of the European Convention on Human Rights; he was judge at the European Court of Human Rights from 1976 to 1980.
Cassin mainly taught civil law; both Reuter and Teitgen did hardly teach administrative law, differently from Vedel. The latter was also a member of the French delegation that negotiated the Rome Treaties. Jean Boulouis (1927-1997) of whom I was assistant at the Université Paris II – Panthéon Assas in the early nineteen eighties, taught and published handbooks and articles on French administrative and constitutional law as well as EC law. Boulouis also practiced as counsel in a number of cases before the ECJ, such as in the *Isoglucose* case[61], where he was counsel of the French government, whereas Teitgen was counsel of the European Parliament.
As far as members of the *Conseil d'État* are concerned, a special mention needs to be made of Maurice Lagrange (1900-1986), who became one of its members in 1924. Jean Monnet, who had Alexandre Parodi a member of the *Conseil d'État* whom he knew from i.a. the ministry of foreign affairs, to give him a name of Lagrange whom Monnet entrusted to write a first draft of ECSC treaty. Having thus had an important role in the drafting and negotiation of the treaty, Lagrange was appointed as first advocate general (AG) of the Court in 1952, where he remained until 1964; his experience as *commissaire du gouvernemnt* of the *Conseil d'État*, a function which inspired the ECJ's function of AG, contributed

to shape this role.

Generally speaking, with the exception of the names here mentioned, the scholarship in constitutional law and administrative law did not dedicate much attention to Europeanisation before the end of the nineteen eighties. As far as the *Conseil d'État* is concerned, many of its members did show scarce enthusiasm for EC law, with the exception of those who became AGs or judges a the ECJ. This is one of the reasons which explain the *Conseil d'État*'s resistance to the primacy of EC law for many years, the other being that since the nineteenth century it refused to review even indirectly the constitutionality of acts of Parliament, a reasoning which applied to the laws of ratification of the EC treaties. A radical change occurred with *Nicolo* 1969[62], where primacy was accepted and applied; this change was clearly due to the influence of a new generation of members, especially of Marceau Long who was vice-President at the time and of Fernand Grévisse, who was judge at the ECJ from 1981 to 1982 and from 1988 to 1994. Grévisse started the tradition of calling younger members of the *Conseil d'État* to become clerks (*référendaires*) and to the establishment of a European law unit at the *Conseil*.

In the same way as for other member states, there has been an increasing Europeanisation of many fields of special administrative law and also further development of independent administrative authorities – albeit some of them had already been established earlier in France with the *Médiateur* (Ombudsman) in 1973, as well as the *Commission nationale de l'informatique et des libertés* (Data Protection Authority) and the *Commission d'accès aux documents administratifs* (Authority for access to documents) in 1978.

There has also been an important impact of the ECHR and of the ECtHR's jurisprudence after the ratification of the European Convention of Human Rights in 1974 and acceptance of individual appeals to the Strasbourg Court in 1981. The late ratification by France was first due to the war in Algeria from 1955 onwards, and then to the reluctant attitude of general de Gaulle towards supranational institutions. The impact of the ECHR has been quite important on the procedure of administrative courts. This happened first with the reform of procedure of the Court of Auditors in the early nineteen nineties, which was based upon the jurisprudence on Article 6 on the Right to fair trial. The law of 1995, which established the power of injunction to administrative judges,

including injunctions to government for the adoption of decrees was due to the insistence of the *Conseil d'État* with the French government that such a reform was needed in order to prevent France from being sentenced by the Strasbourg Court on the basis of Article 6. Later, the ECtHR's judgment in *Procola v. Luxembourg* of 1995[63], led to the reform by a series of decrees amongst which Decree n° 2009-14 of 7 January 2009 of the title and of the procedure by which the *commissaire du gouvernement*, now *rapporteur public* gives his opinion.

7. As a matter of conclusion, where are we?

Let me finish by recalling the words of John Kerr, who was Secretary general of the Convention on the Future of Europe 2002-2003. He used to start meetings of the secretariat with the words «*We are where we are*». This quote applies perfectly to the present situation of French administrative law.

Contrary to the somewhat grim conclusions of the two more recent handbooks on History of administrative law[64], I do not see a profound crisis of French administrative law and administrative justice, and also not a real decline of the so called "exorbitant nature of administrative law", which should not be misunderstood: exorbitant is not a pejorative qualification but a reference to a number of special rules and principles which are not those of civil law.

The main reason that explains my position is probably due to my longstanding experience in comparative administrative law. But this optimism is maybe to my optimistic nature.

1. This article is the expanded written version of my presentation on France at the symposium "Birth and Growth of the Administrative Law: The Comparative Perspective and the Italian Evolution" organised in Rome on 21 May 2025 by the "Associazione Italiana Professori Diritto Amministrativo (Aipda)" in occasion of its 25th anniversary. For this reason, it was not submitted to the usual external peer-reviewing procedure.
2. See amongst others S. Rabourdin, *L'observateur et la conscience en physique quantique*, in *L'Indécise*, 4 septembre 2019 https://doi.org/10.58079/q4my.
3. The text of the PhD dissertation, updated to the second and third enlargements of the European Communities, has been eventually published about ten years later: J. Ziller, *Égalité et mérite – L'accès à la fonction publique dans les États de la Communauté européenne*, Brussels, 1988.
4. See i.a. J. Ziller, *Les droits administratifs nationaux : caractéristiques générales*, in J.-B.Auby & J. Dutheil de la Rochère (eds.), *Droit Administratif Européen*, Bruxelles, 2007

p. 539-558; J. Ziller, *L'usage du qualificatif de droit administratif en droit comparé*, in C. Bories, *Un droit administratif global?*, Paris, 2012, p. 127-138 ; as well as D.-U. Galetta, J. Ziller, *EU Administrative Law*, Edward Elgar Publishing, Cheltenham, 2024, pp. 107-110.

5. M. Fromont, *Droit administratif des États européens*, Presses Universitaires de France – PUF, Paris, 2007.
6. See i.a. G. della Cananea, M. Bussani, eds, *Administrative Justice Fin de siècle - Early Judicial Standards of Administrative Conduct in Europe* (1890-1910), Oxford University Press, Oxford, 2021.
7. As demonstrated by the important role played by the book of L. Neville Brown, and J. F. Garner, with the assistance of N. Questiaux, *French Administrative Law*, Butterworth, London,, 1967.
8. See i.a. the handbooks of F. Burdeau, *Histoire du droit administratif depuis la Révolution française,* Presses Universitaires de France – PUF, Paris, 1970 and G. Bigot, *Introduction historique au droit administratif depuis 1789,* Presses Universitaires de France – PUF, Paris, 2002. Both authors do not at all deny the existence of administrative law before the Revolution, on the contrary: see G. Bigot, *Les mythes fondateurs du droit administratif*, in *Revue française de droit administratif*, 2000, 3, pp. 527 ff. They with the French Revolution because traditionally the courses of history of institutions in France were divided in two parts, the first, taught for a long time in the first year of legal studies went from the birth of France to the Revolution, the second was taught in the third or fourth year of studies. Handbooks on administrative law usually have at least a short historical introduction, which usually starts with the creation of the *Conseil d'État.*
9. https://www.britannica.com/event/Coup-of-18-19-Brumaire.
10. https://www.napoleoseries.org/research/government/legislation/c_constitution8.html.
11. *Tribunal des conflits*, 8 février 1873, *Blanco*, available on https://www.conseil-etat.fr/decisions-de-justice/jurisprudence/les-grandes-decisions-depuis-1873/tribunal-des-conflits-8-fevrier-1873-blanco
12. A. de Tocqueville, *L'Ancien Régime et la Révolution*, Michel Lévy frères, Paris, 1856. For a scan of the original edition see https://gallica.bnf.fr/ark:/12148/btv1b8622134v/f9.image; for an English translation see J. Bonner, *The Old Regime and the Revolution* Harper & Brothers, New York, 1856, accessible at https://oll.libertyfund.org/titles/tocqueville-the-old-regime-and-the-revolution-1856.
13. A. de Tocqueville, *De la démocratie en Amérique*, Paris, 12th edition 1848, https://gallica.bnf.fr/ark:/12148/bpt6k37007p.texteImage; for an English translation : *Democracy in America. English Edition.* Edited by E. Nolla. Translated from the French by James T. Schleifer., Indianapolis, 2012. Vol. 1. https://oll.libertyfund.org/titles/democracy-in-america-english-edition-vol-1.
14. P. Legendre, *Histoire de l'Administration, de 1750 à nos jours*, Presses Universitaires de France – PUF, Paris, 1968 and *L'Administration du XVIII^e à nos jours*, Presses

Universitaires de France – PUF, Paris, 1969.

15. My translation for P. Legendre, *La facture historique des systèmes (Notations pour une histoire comparative du droit administratif français)*, in *Revue internationale de droit comparé*, 23-1, 1971 pp. 5-47.
16. *Id*, pp. 5-6, my translation.
17. J.L. Mestre, *Introduction historique au droit administratif français*, Presses Universitaires de France – PUF, Paris, 1985.
18. J.L. Mestre*, Le contentieux des communautés de Provence: un droit administratif à la fin de l'ancien régime*, LGDJ, Paris, 1976.
19. J.L. Mestre, *Staat, Verwaltung und Verwaltungsrecht: Frankreich*, in A. von Bogdandy, S. Cassese, P. M. Huber, *Ius Publicum Europaeum Band III Verwaltungsrecht in Europa: Grundlagen*, Munich, 2010, pp. 83-114.
20. M.H Renaut, *Histoire du droit administratifi,* Ellipses, *Paris, 2007.*
21. K. Weidenfeld*, Histoire du droit administratif du XIV*ème *siècle à nos jours*, Economica, Paris, 2010.
22. See P. Craig, *English Administrative Law from 1550, Continuity and Change*, Oxford University Press, Oxford, 2024.
23. Data from https://en.wikipedia.org/wiki/List_of_countries_by_population_in_1600, accessed on 14 July 2025.
24. Data from https://en.wikipedia.org/wiki/List_of_countries_by_population_in_1800, accessed on 14 July 2025.
25. Id.
26. See J.C. Bonichot, P. Cassia, B. Poujade, *Les grands arrêts du contentieux administratif*, Paris, 8th edition Dalloz, 2022, p. 1284.
27. See M. Long, P. Weil, G. Braibant, *Les grands arrêts de la jurisprudence administrative,* Dalloz, Paris, 2nd edition, 1958, p. 260.
28. E. Laferrière, *Traité de la juridiction administrative et des recours contentieux*, Paris, 1887, available on https://gallica.bnf.fr/ark:/12148/bpt6k6503485t.texteImage#
29. *Ivi*, p. IX.
30. See i.a. M. Mazzamuto, *Pour une défense du droit administratif issu de la tradition française*, in *Il diritto dell'economia,* 1, 2025, pp. 11-43.
31. M. Long, P. Weil, G. Braibant, P. Delvolvé, B. Genevois, *Les grands arrêts de la jurisprudence administrative,* Dalloz, Paris,, 2025.
32. J. Boulouis, R.-M. Chevallier, *Grands arrêts de la Cour de justice des Communautés européennes*, Dalloz, Paris, 1974, followed by five editions and later by H. Gaudin, M. Blanquet, J. Andriamtsimbasovina, F. Fines, *Les grands arrêtd de la Cour de justice de l'Union européenne*, Dalloz, Paris, 2014 2023.
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34. J.-M de Gérando, *Institutes du droit administratif français, ou éléments du code administratif*, Hachette Livre BNF, Paris, 1829 – 1830, available on

https://gallica.bnf.fr/ark:/12148/bpt6k58130308.texteImage: links starting with gallica.bnf.fr are to the scanned versions of books of the *Bibliothèque nationale*, where all books published in France have to be deposited.

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38. Ibidem,
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43. L. Duguit, *Law in the Modern State*, Kessinger Publishing, New York, 1919, p. xliv, available at https://archive.org/details/lawinmodernstate00dugurich/page/44/mode/2up
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45. H. Kelsen, *Théorie pure du droit, trad. française de la 2ième éd. de Reine Rechtslehre par Eisenmann, Charles*, Dalloz, Paris, 1962.
46. See F. Melleray, *Le droit administratif de René Chapus*, Dalloz, Paris, 2022.
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