

DROIT ADMINISTRATIF DES BIENS

- Support de cours sur Moodle.
- Plan du cours sur moodle + bibliographie.
- Hors TD : oral-écrit 1h (question de cours), si on passe les examens à la maison ce sera une question de réflexion.
- TD : commentaire d'arrêt.
- Pas de semaine de révision : enchaînement direct des examens après les heures de cours.

Introduction générale

Le droit administratif des biens étudie les moyens matériels dont dispose l'administration pour remplir ses missions ; il s'agit donc d'analyser les différents régimes juridiques qui pèsent dessus. Cela va recouvrir l'étude du régime des propriétés publiques.

Il s'agira également d'aborder la notion de travaux publics (permet aux PP de créer de nouveaux biens, de les valoriser), la notion d'ouvrage public, la question de l'expropriation (mode d'acquisition de bien particulier). On va également voir comment la personne publique acquiert des biens et comment elle les protège. Ces divers aspects revêtiront le cours étudié ce semestre.

Partie 1 : La propriété des personnes publiques

Introduction

Les personnes publiques sont dotées d'un patrimoine très important, qui s'est constitué au fur et à mesure, un patrimoine que l'on peut faire remonter à l'ancien Régime (biens de la couronne), ce patrimoine s'est accru au fil du temps.

Ce patrimoine est à la fois immobilier et mobilier, il va s'agir de s'intéresser aux notions de domaine public et de domaine privé.

S1 : Les notions de domaine privé et de domaine public

Les personnes publiques sont propriétaires d'un certain nombre de biens, et on a pris l'habitude de les ranger dans deux catégories qui sont le domaine privé et le domaine public. Cette distinction entre les deux qui existe en France, ce n'est pas une distinction que l'on retrouve dans tous les pays.

Cette distinction n'existe pas dans les pays de Common Law, dans ces pays-là ce sera les mêmes règles que pour les personnes privées.

Dans le cas français, on va distinguer deux catégories de biens, les biens qui relèvent du droit public sont soumis au droit public et les biens qui relèvent du droit privé sont soumis au droit privé.

Cette distinction entre le domaine privé et public a une origine ancienne, elle trouve son origine dans l'Ancien Régime ; on peut faire référence aux **biens de la « couronne »**, le Roi ne possédait pas ces biens, il avait simplement un droit de garde.

Cette distinction prendra plus d'importance à partir de la R^e française, pour illustrer cela, il s'agirait d'évoquer un décret du 22/11 et 01/12/1790 qui reconnaît l'existence de « domaine national », ce domaine correspond au domaine de la couronne.

C'est le Code Civil qui va dégager l'idée d'une distinction entre le DPub et le DPv car il va faire la référence au DPub dans son article 538.

Droit Administratif Biens 21e D

Yijin Wang



Droit Administratif Biens 21e D:

Manuel de droit public et administratif de l'empire ottoman A. Heidborn, 1908 **Les grandes décisions du droit administratif des biens. 4e éd.** Caroline Chamard-heim, Fabrice Melleray, Rozen Noguellou, Philippe Yolka, 2022-12-08 M
me si le droit administratif des biens est largement codifié il est n pour emprunter une formule de J Rivero sur les genoux de la jurisprudence Les juridictions judiciaires et surtout administratives conservent un r le d terminant s y ajoutent aujourd'hui le Conseil constitutionnel et les cours européennes L ouvrage pr sente les notions clefs qui structurent la mati re propri t domaine travail et ouvrage publics l acquisition des propri t s publiques amiable ou forc e leur consistance et leur gestion L utilisation du domaine des personnes publiques se trouve d crite en d tail usages communs droits r els redevances etc comme les r gimes de responsabilit du fait des travaux et ouvrages publics Les r gles de protection insaisissabilit inal nabilit intangibilit ainsi que le r gime de cession des biens publics sont galement expos s Cette 4e dition des Grandes d cisions du droit administratif des biens s enrichit de plusieurs commentaires et d veloppements en phase avec les enjeux contemporains de la mati re Ainsi sont approfondies les questions relatives l image des biens publics aux propri t s des personnes publiques localis es l tranger et aux transferts de propri t s publiques la reconnaissance de constitutionnalit de l inal nabilit et de l imprescriptibilit du domaine public ou la restitution des biens culturels Le renforcement de la transparence dans l octroi des titres d occupation du domaine public la neutralit des biens publics et la possibilit pour des personnes publiques de faire partie d associations syndicales de propri taires sont galement abord s tout comme la difficile distinction entre l utilisation privative et l utilisation commune des biens du domaine public Droit administratif. 10e éd. André Maurin, 2016-08-24 Cet ouvrage regroupe les notions fondamentales du droit administratif national connect au droit europ en et international les r gles sp cifiques de l organisation de l action et du contr le de l Administration dans sa gestion des services publics et ses rapports avec les particuliers et l essentiel de ce qu il faut savoir sur la fonction publique Profond ment remani e cette 10e dition int gre les volutions juridiques les plus r centes de ce domaine du droit parfois r put herm tique r forme du tribunal des conflits diction du Code des relations entre le public et l administration nouveau r gime de l tat d urgence modification des r gles de la commande publique Tr s structur illustr de nombreux exemples jurisprudentiels de remarques de tableaux de sch mas et de statistiques le pr sent ouvrage comporte galement un glossaire et constitue un moyen privil gi d acquisition des principes de base et un outil de r vision efficace l approche des examens et concours Ce manuel pr cis et accessible s adresse en priorit aux tudians capacit en droit licence DUT carri res juridiques M DOS candidats aux concours d acc s la fonction publique d tat territoriale ou hospitali re des cat gories A B et C Ipag CPAG IGPDE Greta CNFPT administrateurs et gestionnaires des personnels de la fonction publique qui re trouveront facilement une r frence l gislative r glementaire ou jurisprudentielle usagers des services publics confront s aux d cisions de l administration *La revue communale de belgique* , 1888 **The Canada Gazette** Canada, 1927 *De la propriété et de l'administration des biens ecclésiastiques en*

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