



CONSEIL D'ÉTAT - ADMINISTRATIVE COURTS OF APPEAL - ADMINISTRATIVE TRIBUNALS



The administrative justice system

An overview

A justice system at the heart
of relations between citizens
and public authorities



Between two hearings, waiting area. Public hearing at the administrative tribunal.

Building permits, tax rates, GMO regulations, or orders to leave the French territory... all acts by the administration may be challenged by citizens. 42 administrative tribunals, 8 administrative courts of appeal and the French Conseil d'État rule on disputes between individuals and public authorities (the State, local authorities, independent administrative authorities and public institutions).

Protecting citizens from abuses or errors by the administration

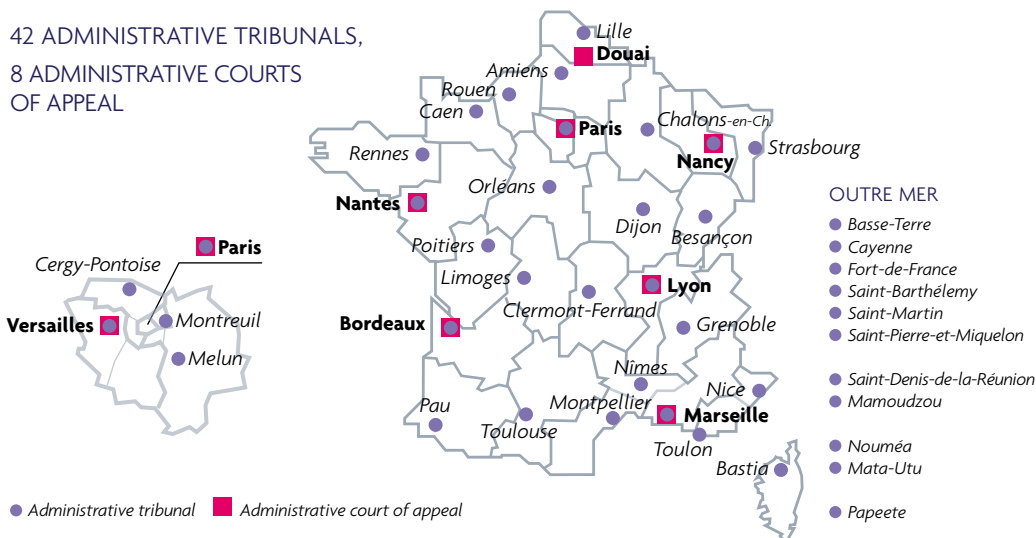
Constitutional principles enshrine the existence of the administrative justice system, its jurisdiction and its independence. In accordance with these principles, only an administrative court may quash or, on occasion, revise decisions taken by the State, local authorities or public bodies operating under their authority or control. Administrative courts may also order a public legal body to pay compensation, particularly where a wrongful act by that public legal body has given rise to damage or loss. On a day-to-day basis they safeguard human rights and civil liberties, in accordance with public interest. They are the guardians of the rule of law in relations between citizens and public authorities.



THE MODEL USED IN FRANCE HAS BEEN ADOPTED IN A MAJORITY OF EUROPEAN COUNTRIES

A majority of countries in Europe have elected to entrust the task of judicially reviewing public authorities' activities to a specific jurisdictional system: of the 27 member states of the European Union, 15 have set up an administrative justice system which is wholly separate from their civil, commercial and criminal justice systems. Most of the other member states have created, within a single jurisdictional system, courts specialising in administrative affairs and/or an administrative chamber within their Supreme Court.

42 ADMINISTRATIVE TRIBUNALS,
8 ADMINISTRATIVE COURTS OF APPEAL





A lawyer addresses the court.



Administrative judges at a public hearing.

Administrative tribunals, administrative courts of appeal, Conseil d'État: the three levels of the administrative justice system

ADMINISTRATIVE TRIBUNALS, FIRST-INSTANCE COURTS

In France there are 42 administrative tribunals (31 in continental France and 11 in overseas territories). In the event of a dispute, the administrative tribunal which in principle has jurisdiction is the one located in the geographical area where the authority which has taken the decision at issue has its headquarters. In 2008, administrative tribunals heard over 183,000 cases. The expected average waiting period for decisions, which stood at over 20 months in 2000, has been reduced to less than 13 months.

ADMINISTRATIVE COURTS OF APPEAL, APPELLATE COURTS

Approximately 16% of judgments rendered by administrative tribunals are appealed before the administrative courts of appeal (for some disputes, it is still the Conseil d'État that hears appeals). The eight appeal courts of Bordeaux, Douai, Lyon, Marseille, Nancy, Nantes, Paris and Versailles heard approximately 27,000 cases in 2008, and the expected average waiting period for decisions – which in 2000 was over three years – is now less than 13 months.

The members of the administrative tribunals and administrative courts of appeal – amounting to over 1,000 judges – form a single body, and are mainly recruited through ENA (the National School of Administration) and competitive examinations.

The law guarantees their security of tenure and their independence. All individual measures relating to the careers, promotion and disciplining of judges are subject to review by the High Council of Administrative Tribunals and Administrative Courts of Appeal, made up mainly of judges, elected by their peers, as well as qualified persons, and chaired by the Vice-President of the Conseil d'État.

Working alongside the judges, over 1,300 clerks ensure the smooth day-to-day operation of the administrative courts of appeal and the administrative tribunals. They are responsible for managing case-files: registering and forwarding applications, handing over documents in the file between the parties, drafting and notifying of judgments, etc.

THE ADMINISTRATIVE JUDGE: A JUDGE WITH ADDITIONAL POWERS

Responsible for giving rulings and settling disputes between the administration and citizens, an administrative judge must balance the defence of individual rights with the protection of the public interest. In order to do this, he has powers that in recent years have expanded significantly. For example, he may now accompany his decisions with measures to ensure that they will be properly enforced, and may give emergency rulings within the framework of interim injunction proceedings (with the possibility of giving a ruling within 48 hours). The law guarantees his independence and, in particular, his security of tenure.



The Conseil d'État.



A hearing in the Litigation Section of the Conseil d'État.

THE CONSEIL D'ÉTAT, SUPREME ADMINISTRATIVE COURT

The Conseil d'État is mainly a court of cassation. Over three-quarters of the cases brought before it are appeals in cassation, directed mainly against administrative court of appeal decisions and certain administrative tribunal decisions, as well as against decisions made by specialised administrative bodies.

The Conseil d'État is also a court of appeal. Its jurisdiction to hear appeals has, however, been gradually transferred to the administrative courts of appeal created in 1987; today, it is mainly limited to disputes regarding municipal and cantonal elections and actions for the determination of legality originating from the judicial courts.

The Conseil d'État is also a court of first instance for disputes of particular significance – decrees, regulatory decisions by ministers, decisions by collegiate bodies with national jurisdiction, individual measures relating to officials appointed by decree of the President of the Republic – or whose geographical scope goes beyond the sphere of responsibility of an administrative tribunal. In addition, the Conseil d'État rules directly on disputes regarding elections to regional councils and to the European Parliament. Cases at first instance account for approximately a quarter of the proceedings brought before the Conseil d'État.

Hearing approximately 10,000 cases per year, the Conseil d'État has, in common with other jurisdictions, made considerable efforts to reduce its expected average waiting period for decisions, which has now been reduced to less than 10 months.

Specialised administrative tribunals

In addition to the ordinary courts, namely the administrative tribunals and the administrative courts of appeal, there are specialised courts: the Cour des comptes (Court of Auditors); the Cour de discipline budgétaire et financière (Budget and Finance Disciplinary Court); the Commission centrale d'aide sociale (Central Commission of Social Aid); the Conseil supérieur de la magistrature (Supreme Judicial Council), which rules on disciplinary matters and disciplinary sections of professional bodies; and the Cour nationale du droit d'asile (National Court of Asylum), which rules on appeals against refusals to grant refugee status. The Conseil d'État acts as the court of cassation for these bodies.

CASE LAW THAT PROTECTS CITIZENS' RIGHTS

The Conseil d'État and the other administrative tribunals work to ensure a balance between public authority prerogatives and citizens' rights. The administrative justice system has been continually stepping up the extent to which the administration is subject to the law and, as a result, the protection of citizens. Continuous efforts are being made in relation to the waiting period for decisions, which has been reduced drastically in recent years (by over 20% at the Conseil d'État and in the administrative tribunals, and by over 50% in the courts of appeal, since 2000). For urgent matters, interim injunction proceedings enable the administrative courts to render decisions within very short periods: a few weeks, or even 48 hours in the case of "référé liberté" - petitions for the protection of fundamental liberties.



A site visit before a hearing.



Clerks in a working session around the president of the tribunal.

THE CONSEIL D'ÉTAT,
IN CHARGE OF THE
MANAGEMENT OF THE
ADMINISTRATIVE COURTS

In addition to its function as supreme administrative court and its mandate to advise the government on the most important legislative bills (laws, decrees, etc.), the Conseil d'État is responsible for managing all the administrative tribunals, administrative courts of appeal and the National Court of Asylum. This form of management contributes to the independence of the administrative justice system and the administrative judges. In order to best meet the expectations of the increasing numbers of litigants referring cases to it, the administrative justice system is adapting the way in which it is organised and its methods of action by modernising its facilities, and also by opening new courts. Against a background of rapid growth, its performance indicators are thus constantly improving.

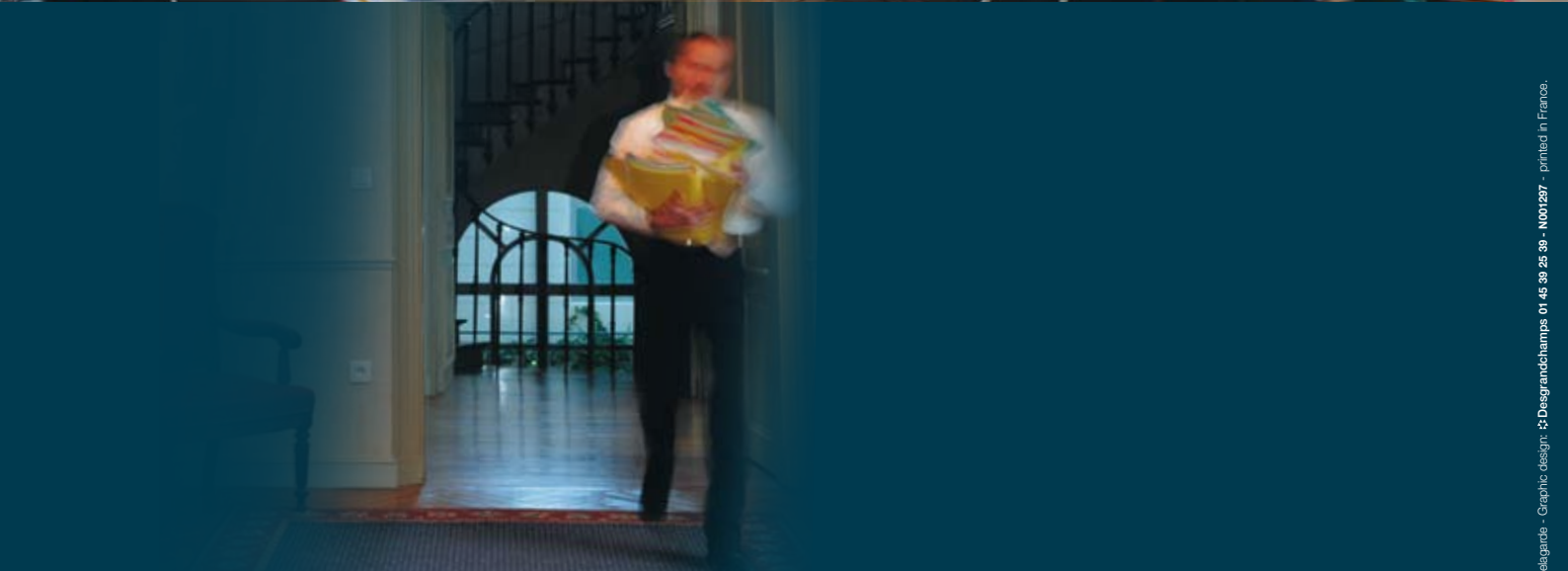
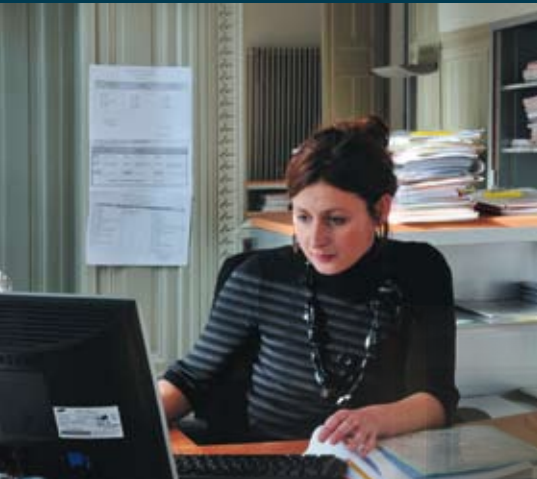
A rapid increase in administrative litigation

Protecting fundamental liberties and human rights, defending the public interest, ensuring that public governance is of a high quality: the administrative courts, at the heart of public life, are required to deal with litigation that is increasing rapidly and diversifying.

Since the beginning of the decade, administrative litigation has increased, on average, by 6.5% annually for administrative tribunals and by 10% for administrative courts of appeal. The traditional spheres of administrative litigation, such as taxes, administrative contracts, civil service, civil liberties and administrative police (particularly in relation to policies to control immigration) remain very important. However, the increase in the number of public authorities, particularly independent ones, and changes to public policies have also led to an extension of the scope of public law and the jurisdiction of the administrative courts.

Over ten years, the number of cases brought before the administrative courts has increased by 96% for the administrative tribunals and by 164% for the administrative courts of appeal.

This development is evident in the increasing importance of environmental law, whether in relation to environmental governance (public consultation and involvement) or substantive issues (protection of biodiversity, combating greenhouse gas emissions, safety of industrial installations, management of water resources and waste, environmental liability, etc.). It can also be seen in relation to the development of land use and urban planning law, or in the sphere of local authorities (regions, departments, municipalities and overseas collectivities or territories with a special status, etc.), the jurisdiction and decision-making powers of which are continually increasing. Regulation of the audiovisual sector and the protection of citizens in relation to personal data handling are also responsible for an increase in administrative litigation. The same is true of social legislation (public health, social assistance and action, the enforceable right to housing, the earned income supplement, etc.) and economic legislation (public purchasing, public property or privatisations, economic intervention, regulation of sectors being opened up to competition, monitoring of economic concentrations, pricing of public goods, etc.).



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