The principle of independence in Administrative Justice Overview on Administrative Courts of European Union's countries

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Abstract

The judicial independence is a touchstone of all democracies. It is considered a basic principle on the organization and functioning of the judicial system. On the other hand, the existence of administrative justice is a fundamental requirement of a society based on the rule of law. It signifies a commitment to the principle that the government, and its administration, must act within the scope of legal authority. In administrative justice, independence takes a special importance taking into consideration the fact that in the administrative judgment one party is a public authority. The aim of this study is to analyze all the forms by which the legislation, especially the law on administrative courts guarantees an independent administrative justice. In the focus will be the organic laws of countries like France, country members of European Union. Also, despite "Brexit" phenomenon, a special part of this article will be focused on United Kingdom administrative judiciary in special and administrative justice in general in this country. By comparing two different systems of law, common law versus civil law, this article will aim to extract the ways these countries use to guarantee in some points in different ways but with the same purpose, the independence of judiciary system. The research questions that will be analyzed in this article, consist in identifying and analyzing forms that guarantee independence of administrative courts like jurisdictional independence, manner of judge's appointment, not having a hierarchy in decision making, independence from the executive power etc. By assuring an independent administrative justice, the countries, the ones, part of European Union and the ones that intend to be part of European Union, will accomplish a right, fast and effective administrative judgment, will guarantee effective protection of human rights and legitimate interests through a regular judicial process conform fast and reasonable time terms. Aiming high applicability of this principle, these countries will fulfill one of the main criteria of aspiring or/and being part of the European Union.

Keywords: the principle of independence, administrative court, effective administrative judgment.

All the rights secured to the citizens under the Constitution would not be valuable if they are not guaranteed by an independent and virtuous Judiciary.

Andrew Jackson

Introduction

The existence of independent and impartial courts is a structural requirement of a state governed by the Rule of Law and thus to ensure the proper implementation of the law impartially, fairly, honestly and efficiently. The independence of the courts in general and of the judges, must be considered as a guarantee for the truth, liberty, respect for human rights and fair justice, free of external influences.The independence

of the Courts and judges is not a privilege given for the judge's interest; the greatest interest is the rule of law for everyone who requires justice.[1] The main function of the independence is to guarantee the right of an individual to have his/her rights and freedoms determined, protected and implemented by an independent and impartial judge. The independence of the judiciary as a whole is the essential condition of the judicial independence, which enables judges to fulfill their role of guardians of the rights and freedoms of the people.[2] The right of the citizen to be judged from an independent court is a guarantee of highest level. This is the reason why this basic and universal principle is confirmed from the most important documents such as the Universal Declaration of Human Rights[3], European Convention of Human Rights[4] and other documents of European Council, European Union, including reccomendations of the Committee of Ministers. These documents constitute an expanded platform for the legislative bodies of the countries to define clear guarantee for the independence of the judiciary system. An important part of this system, are the administrative courts. Taking into consideration that in the administrative judgment, one party is a public authority, the independence and the mechanisms to guarantee it, take an essential importance.

The aim of this study is to analyze the administrative courts of some countries of European Union, the law on the organization and functioning of these courts, to compare, analyze and to evident the forms these countries have choose to guarantee and independent administrative justice. The focus of the paper is to define the concrete forms the independence of the administrative courts is guaranteed in countries like France and Albania as a country with the aspiration to be part of EU. Also, despite "Brexit" phenomenon, a special part of this article will be focused on United Kingdom administrative courts in special and administrative justice in general in this country.

The first issue will be discussed in this paper, are the concrete mechanisms used to ensure independence of administrative courts. The second issue, will be reviewed, is especially the analysis of organic law of countries like France and the analysis of United Kingdom in order to verify how the legal provisions ensure the administrative courts's independence. In conclusion, the paper aim to highlight current forms the legislation ensure independence and recommendations to be considered for having independent judgment even in practical terms.

The main research questions that guided this article are:

1. Which are the forms that ensure in practice the independence in the administrative judgment?
2. How are defined the guarantees in specific law in different countries that assure an

[1] Opinion No. 10(2007) of the Consultative Council of European Judges (CCJE).

[2] Euopean Commission for Democracy through Law (Venice Commission) Report on the independence of the judicial system Part I: The independence of Judges .

[3] Article 10 Universal Declaration of Human Rights "Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him….".

[4] Article 6, European Convention of Human Rights; Right to a fair trial "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…….".

impartial court?
3. Does the judicial practice point out any lack of independence in the administrative justice?
An important method for the research has been the analysis of legislations of the countries which will be treated in the paper. In terms of the objectives of the paper are analyzed laws such as: France/Code of Administrative Justice (Last modification on 03.06.2018), Albania/ Law No. 49/2012 "On the Organization and Functioning of Administrative Courts and Judgment of Administrative Disputes" (as amended by Law No. 100/2014) in force in the Republic of Albania and an overview of Administrative Courts in the United Kingdom. The doctrinal research method, is another important form of identifying, collecting data about the principle of an independent Judiciary, as it is written a lot about it, referred to the fact this principle has its origin in the theory of separation of powers. There is no freedom if the power to judge is not separated from the executive and legislative powers.[5]

Legal guarantees and mechanisms used to ensure independence of administrative courts

Independence and impartiality of the judiciary are essential prerequisites for the functioning of justice.[6] They are not solely defined by the laws pertaining to it, but are almost ensured when in practice all the premises are reached. The question to be discussed is: Which are the premises to reach a persistently independent and impartial judiciary?
Impartiality refers to a subjective attitude of the judge to the case, while independence implies not only a certain attitude towards the exercise of judicial function but also the relationship it creates with others, mainly with the executive power.[7] Referring to the independence we can discus about three forms:
1. Statutory independence;
2. Functional independence;
3. Financial independence;[8]

1. Statutory independence mainly has to do with promoting and protecting the status of the judge and other bodies of judicial power. Responsible for this, is the state with its politics and every judge by requesting justice to other state authorities through the highest possible national rules. In order to fulfill this independence of the judiciary, there are some criteria regarding the court activities, recruitment, appointment until the retirement age, promotion, irrevocability, training, judicial immunity, discipline, payment and financing of the judiciary that shall be accomplished. Expect those criteria, an important role play also the judges. They should maintain a strong attitude to the law; they should aim to be part and members of the national or international associations of judges, charged in the protection of the judicial mission in society. They shouldn't be affected and be subject to any orders or instructions,

[5] In The Spirit of the Laws (1748), Montesquieu.
[6] Magna Carta of Judges, The Consultative Council of European Judges Strasburg, 17 November 2010 CCJE (2010)3 Final, Council of Europe.
[7] Justice Reform as an impossible mission, Konomi Rezana, Panorama Newletter, 2015
[8] See note no.6.

or any hierarchical pressure. The Judiciary is the third organ of the government. It has the responsibility to apply the laws to specific cases and settle all disputes. The real 'meaning of law' is what the judges decide during the course of giving their judgments in various cases. From the citizen's point of view, Judiciary is the most important organ of the government because it acts as their protector against the possible excesses of legislative and executive organs. So in other words the judiciary should be involved in court organizations, procedures, and other laws and in all the decisions that affect the practice of the judicial functions

2. Functional independence is the concept that the judiciary should be independent from the executive power and leglislative power. This means, courts should not be subject to improper influence from the other branches of government or from public and private interests. Judicial independence is important to the idea of separation of powers. Obviously, independence is a multi-faceted concept. On the one hand, it is the right of judges not to be interfered with: judges must be allowed to be independent, and many legal instruments and documents stipulate which formal safeguards are required to that end. A judiciary or a judge that meets these requirements is an independent judiciary or judge. In this sense independence is a construct based on formal rules. On the other hand judges should behave, handle and decide cases in an independent manner. His or her decisions and other behavior show whether a judge is independent in practice. The judiciary shall decide matters before them impartially, on the basis of facts and in accordance with the law, without any restrictions, improper influences, inducements, pressures, threats or interferences, direct or indirect, from any quarter or for any reason. Persons selected for judicial office shall be individuals of integrity and ability with appropriate training or qualifications in law. Any method of judicial selection shall safeguard against judicial appointments for improper motives. In the selection of judges, there shall be no discrimination against a person on the grounds of race, colour, sex, religion, political or other opinion, national or social origin, property, birth or status, except that a requirement, that a candidate for judicial office must be a national of the country concerned, shall not be considered discriminatory.

3. Regarding the financial independence, the judiciary system must be granted sufficient funds to properly carry out its functions and must have a role in deciding how these funds are allocated. At the institutional level, international standards make clear that it is the duty of the state to provide adequate resources to enable the judiciary to properly perform its functions. It is the duty of state to provide all the type of recourses such as human, financial and material for the proper functioning of the justice system. As a safeguard of judicial independence, "the courts budget shall be prepared"in collaboration with the judiciary having regard to the needs and requirements of judicial administration". The salaries of the judges have a strong effect on the impartiality of them. Judicial salary affects the quality of candidates attracted to the system (2) judicial salary affects the range of prior careers of candidates attracted to the system and (3) judicial salary affects judges' exit from the system.[9]

[9] James Anderson, Eric Helland, How much judges should be paid An empirical study on the effect of Judicial pay on the state bench,Standford Law Review.org.

Independence of administrative judiciary in France

Referring to the history of law, it can be said with certainty that France symbolizes the foundation stone of the administrative justice. For this reason, french administrative law, known as *"droit administratiff"*, is the starting point of this article. In this frameworks, the research of legal mechanisms France uses to guarantee the independence takes a significant importance.

This overview starts with analyzing the fundamental law of the state of France; Constitution of France[10]. In the article 64 "On Judicial Authority" France's Constitution defines that: "*The President of the Republic shall be the guarantor of the independence of the Judicial Authority. He shall be assisted by the High Council of the Judiciary. An Institutional Act shall determine the status of members of the Judiciary. Judges shall be irremovable from office*". As it can be noticed, in only one constitutional provision, the Constitution of Republic of France defines four forms of guarantees of the independence:

1. Who should be the guardian of the independence;
2. How the country should have higher institutions like High Council to assist proffesionaly the President on the independence of the Judicial Authority;
3. Irremovability of judges. An important guarantee for the independence, as it is mentioned in constitutional level.
4. At last in this provision, the Constitution guarantees to determine the special status of the judges through other institutional acts;

Constitutional principles create the premise of the existence of administrative justice system, its jurisdiction and its independence. In accordance with these principles, only an administrative court can revoke or, on occasion, revise decisions taken by the State, local authorities or public bodies operating under their authority or control.

French administrative justice "was born" with the creation of the Council of Prefecture and the Council of State, heir of the king's council in 1799. [11] This branch of the right was created to enforce the law by the administrations and to repair any damage that they might have caused. Only a specialized judge, who knows the imperatives of public service and knows how to interpret the general will, can judge the administration and protect the citizens [12]

The Council of State has developed jurisprudence[13], wishful to moderate the rights of citizens with the needs of the public service. The Council of State is the highest administrative jurisdiction, it is the final arbiter of cases relating to executive power, local authorities, independent public authorities, public administration agencies or any other agency invested with public authority. [14] The Council of State and the other administrative courts in France, ensure a balance between the prerogatives of public power and the rights of citizens.

The administrative jurisdiction was strengthened with the creation of prefecture councils in 1800, which became administrative courts in 1953. The administrative courts of appeal were created in 1987. Specialized, these jurisdictions are well aware

[10] France's Constitution of 1958 with Amendments.
[11] Administrative Justice in Europe, Report for France.
[12] http://www.conseil-etat.fr/.
[13] Also called "The Rules of Law defined by the judge.
[14] Conseil d'État, The Journal of Regulation http://www.conseil-etat.fr/.

of the operating rules of the public services and are able to control them effectively. The Council of State *(Conseil d'État*) and the other administrative tribunals work to ensure a balance between public authority prerogatives and citizens' rights.
Administrative justice has constantly strengthened the administration's submission to the law and consequently, the protection of citizens, the protection of freedom and fundamental rights. It aims to promote high standards of public governance.
Administrative judges in France play an important role regarding the rule of law in relations between the citizens and public authorities. They are like the guardians and have some additional powers for giving ruling and settling disputes between the administration and citizens. Despite these powers an administrative judge must balance the defense of individual rights with the protection of the public interest. But with the passing of the years the powers of the administrative judge have expanded significantly. Now an administrative judge may 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). So by adding these powers to the administrative judge he/she may give the right decisions by analyzing them and accompanying them with right procedures. In this way the law guaranties what is the most important to an administrative judge, his independence and the security of his rights.
An overview on legislation of Administrative Judiciary in France
An institutional act, as the Constitution of France provides, with importance for this article is the Code of Administrative Justice.[15]

- In the legislative part, preliminary title, in the provision L7, in this code is defined explicitly that: "*The member of the administrative court, responsible for the duties of public reporter, publicly exposes and in independence, its opinion on the issues presented by the applicant"*
- In the provision L8 of the same part is defined that: "*The deliberations of the judges are secret"*

The Code of Administrative Justice defines completely and correctly the organization of the Council of State, Administrative Courts of Appeal and Administrative Tribunals.
Also it defines clearly the mandate of the judges.

- In the provision L.121.2 is provided the composition of the Council of State

1. Vice-president; 2. Presidents of sections; 3. State Councilors in ordinary service;
4. State councilors in extraordinary service; 5. Competent authority of petitions;
6. Competent authority of petitions in extraordinary service; 7. First class auditors;
8. Second class auditors.

- As provided in the provision 131-2 *"The members of the Council of State exercise their functions with complete independence, dignity, impartiality, integrity and probity and behave in such a way as to prevent any legitimate doubt in this respect. They refrain from any act or behavior of a public nature incompatible with the reservation imposed on them by their functions. They cannot claim, in support of a political activity, their membership of the Council of State.*

Analyzing the above provisions, quoted literally from the Code of Administrative

[15] Code de justice administrative, Dernière modification: 03/06/2018, Edition : 08/09/2018.

Justice, the Law in force in France and analyzing the functions and the competences the administrative courts have in France we reach in some key conclusions:

1. The judges and all the authorities in the administrative system of justice exercise their functions with complete independence, dignity, impartiality, integrity.
2. The judges in their decisions are independent from other powers and from any outside influence, which can dictate a distortion of judge's inner conviction.
3. The clear organization and clear mandate defined is another form of guaranteeing the independence of judges.
4. The independence is not a prerogative of being part of the legal system, but is an essential condition to give justice for the citizens.
5. What is special about Administrative Law in France is the fact that it/*Droit Administratif* does not represent the rules and principles established by the French parliament. It consists of rules developed by the judges of the administrative courts. Administrative law in France is a judge- made law. This seems strange for a country, representative of the civil law legal system, characterized by the statute law as the primary source of law.[16]

From all analysis of law and practice in administrative law in France, it is concluded that the independence of the administrative judge in France derives mostly and mainly from the powers and functions recognized by Law and Constitution. Independence in France is both a matter of law and also a matter of fact.

The independence of judiciary from the constitution and administrative law point of view in Albania

In the spirit of the principle of separation of powers, the Constitution of the Republic of Albania[17](1998)amended, in the Article 7 defines that "*The system of governance in the Republic of Albania is based on the separation and balancing between legislative, executive and judicial powers".*

The Article 145 defines that" *Judges are independent and are subject only to the Constitution and the Laws. When judges estimate that the laws come into conflict with the Constitution, they do not apply them. In this case, they suspend the trial and send the case to the Court Constitutional. The decisions of the Constitutional Court are binding on all courts. Interference in the activity of courts and judges brings responsibility according to the law.*

As it is seemed, the separation and the independence of powers, especially the independence of the judiciary are raised in constitutional level. The fact that the Constitution of the Republic of Albania has determined the appointment as the way of placing judges on that duty shows the high constitutional importance given to guaranteeing the independence of the judiciary. The constitution of our country divides the judges and consequently the judiciary from political power, a principle recognized by the liberal states.

From the article 124 until the article 147, Albanian Constitution defines the organization and function of Constitutional Court, High Court, Appeal Court and

[16] Aberham Yohannes&Desta G/Michael,"Administrative Law in Civil Law and Common Law Countries, Abyssinia Law.

[17] Kushtetuta e Republikës së Shqipërisë, Qëndra e Publikimeve Zyrtare, http://www.qbz.gov.al.

District Courts. It defines the duration of the mandate of judges (in Constitution Court and High Court) reasons why the mandate of the judges finishes. The independence of the judiciary in the Constitution is defined through defining the organizational independence, functional independence and financial independence. Independence of the judiciary cannot be understood without the independence of a judge within the judiciary structure itself, which ensures that no judge can interfere in the activity and conviction of another judge. The independence of the judiciary can be ensured only by ensuring the independence of the judge. That is why; Albania aspiring to be part of European Union and fully engaged to fulfill all the obligations of European Union has the independence of the judges the main issue of the day. In this framework the Assembly of Republic of Albania in the year 2016 approved the Law no. 96" On the Status of the judges and prosecutors in the Republic of Albania"

In the article 3 of this law" Fundamental Principles" is defined that:

1. *The magistrate* [18] *exercises its functions in accordance with the Constitution and the law.*
2. *The Magistrate exercises functions independently, evaluating the facts and interpreting the law, according to his internal conviction, free of any direct or indirect influence by any party and for any reason.*
3. *The magistrate should not create inappropriate contacts and should not be influenced by the executive power or by the legislative power. The magistrate must take any measure of being and seems to be out of any influence on them. The Magistrate immediately notifies the Council and the Mayor in case of evidence of interference or improper influence on him.*
4. *The magistrate exercises judicial functions impartially, without influence and without prejudice.*
5. *The conduct of the magistrate during the exercise of his or her function ensures the maintenance and strengthening of public confidence in the justice system, the legal profession and the parties in the process.*

The law as it seemed defines the independence of the judges, the fact they should have guarantees not to be affected from outside influence. This law constitutes a bis step toward the impartiality of judges as it defines clearly the payment(*Article 11 of the Law*) , the rewards

(Article *16 of the Law*) the possibility to take loans for living (*Article 17 of the Law*) special protection(*Article 20 of the Law*) supplementary pension and other profits (*Article 21 of the Law)* .

Article 5 of Law on Administrative Court [19] deals with the criteria of appointment and career of judges, their status, responsibility for disciplinary violations, disciplinary measures, disciplinary proceedings, administration of court services and judicial reorganization. These criteria are also regulated by the provisions of Law No. 9877, dated 18 February 2008 "*On the organization of the judicial power in the Republic of Albania"*, unless otherwise provided in this law.

This provision at first sight seems to create favorable conditions for the independence of the courts because the rules applicable to ordinary courts will apply to

[18] "Magistrates" means the judge, with the exception of a judge of the Constitutional Court, the prosecutor and the chiefs in the sense of letter "g" , Article 2, point gj of the Law .962016 " On the Status of the judges and prosecutors in the Republic of Albania".

[19] Law on 49/2012 " On organization and functioning of Administrative Courts and the trial of administrative disputes (changed with the law no.100/2014).

administrative courts, unless otherwise provided by law. What means that the law on the organization of judicial power in the Republic of Albania will extend its legal effects to administrative judiciary system?

Observations from international organizations have arrived in the conclusion that in Albania there have been various problems regarding the independence of the judiciary. The judges asked about the pressures coming from abroad and within the system answer that pressures from outside the system are bigger than those that come from the court administration or the highest levels of the system. Also in practice big pressure comes from the executive and legislative powers. This is a major problem and a lack of ensuring impartiality from the judicial system in Albania. Another big pressure for Albanian judiciary system is the so-called fourth power, Media. The pressure of media is considered a bad influence on the decisions the judges make.

The justice system in Albania has been suffering from decades of lack of independence and high level of corruption.To achieve reformations, in order to advance on the path of European integration, Albania is in a period of reforming the justice, from November 2014, with participation of a large number national and international experts. In this framework came into force the above mentioned law no.96 date 2016" On the Status of the judges and prosecutors in the Republic of Albania" with clear and evident guarantees for the independence of judges.

Administrative Law in Common Law Countries versus Civil Law Countries United Kingdom as the main representative of Common Law tradition

The British system of administrative law, followed throughout the English-speaking world, has specific characteristics, which distinguish it from the administrative system of other European countries that has adopted civil law, so called continental legal system.

The Administrative Court is part of the Queen's Bench Division of the High Court[20]. The Administrative Court hears the majority of applications for judicial review and also some statutory appeals and applications.

Judicial review is the procedure by which an individual, company, or organization may challenge the act or omission of a public body and ensure that the public body meets its legal obligations. Some cases in the Administrative Court come before a Divisional Court, usually consisting of one Lord Justice of Appeal (or the President) and one High Court Judge.

Judicial reviews which challenge planning decisions are heard in the specialist Planning Court, a part of the Administrative Court. The judicial Review applies only when we have to do with a breach of human rights and it is used to challenge the lawfulness of the decision, including the procedures whereby it was reached, rather than the substantive merits.

There are some specific characteristics of the Administrative Court in United Kingdom:[21]

[20] The Administrative Court Judicial Review Guide 2018, Judiciary for England and Wales ….One of the three divisions of the High Court, together with the Chancery Division and Family Division.
[21] www.judiciary.uk.

- The Administrative Court is led by the 'Judge in Charge', a High Court Judge with very significant experience, who reports to the President of the Queen's Bench Division.
- The Administrative Court has, , also been supported by a dedicated Master who supports the leadership of the lawyers employed by the court who through powers conferred by the Civil Procedure Rules have been able to relieve the judges of many minor tasks through the delegation of judicial powers.
- A Queen's Bench judge is on duty 24 hours a day every day to hear applications for judicial review which cannot be delayed until normal hours of business.
- The out of hours work is an exceptional process only to be invoked if the application could not have been made during normal hours despite the best endeavors of the parties and lawyers.
- They need to explain to the court why the application has to be heard before the next court day and could not be heard during normal court hours. Such late applications are rarely justified
- The claimant must provide full disclosure to the court of everything relevant even though it may harm his or her case.

As it mentioned above the judicial review as a means for mediating relations between individuals and the state (and as between state bodies themselves) takes a special importance.

It means courts have developed new grounds for reviewing the actions and inactions of public authorities. Administrative justice has absorbed the values of legality, fairness and rationality that have historically defined judicial review also making links to values that are more readily associated with governance studies – transparency, accountability, input participation, efficiency, and so on. The studies show that the administrative justice in England has become more prominent in recent years; the historically dominant position that judicial review has taken reflects the fact that it has defined many important developments in both the constitutional and administrative law of the UK.

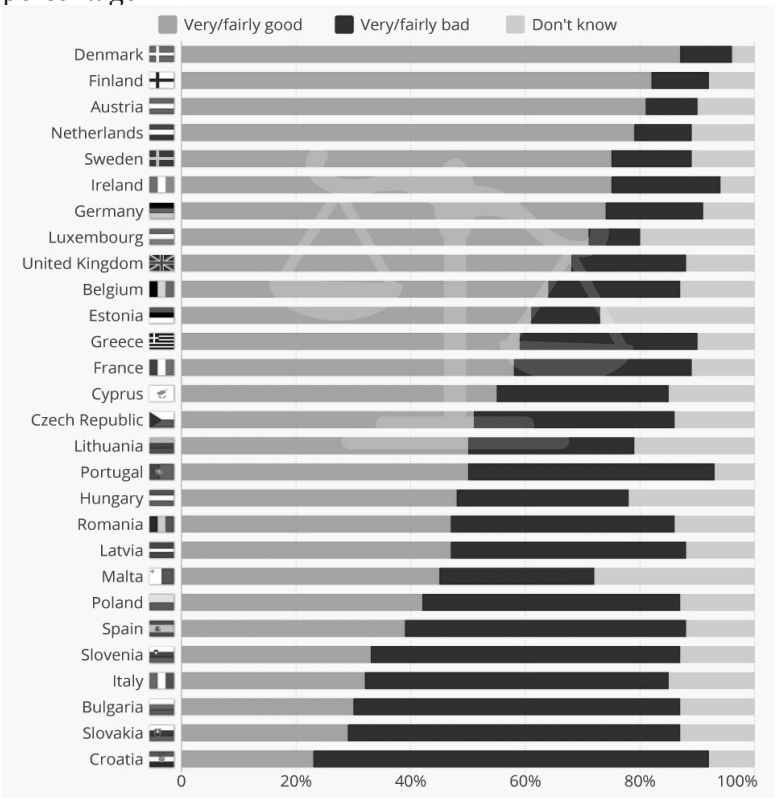
Administrative law in civil law countries covers issues such as the organization, powers and duties of administrative authorities, the legal requirements governing their operation, and the remedies available to those adversely affected by administrative action. It also includes subjects like the structure and composition of the various administrative agencies, civil service law, the acquisition and management of property by the administrative authorities, public works, and contractual and non- contractual liability of administrative authorities and public officials. The comparison between civil law and common law is useful and important in administrative law, because of the nature of the leading problems, related way of controlling government according to the interests of both state and citizen, which is common to all the developed nations of the west and in many developing countries of the third world. [22]There is a clear difference with regards to the scope of and the approach to administrative law in these two legal systems. The countries that follow the principles of common law have developed the idea of judicial review. The procedure of judicial review in common

[22] Administrative Law in Civil law and Common law Countries, Aberham Yohannes and Desta G/ Michael, 31 January 2012, Abyssinia Law.

law system is based on doctrines that establish standarts for creating rules.
France as representative of civil law has a huge impact also on the system of administrative law of common law countries. Administrative law develops on its own independent lines, and is not fused with the ordinary private law as it is in the Anglo- American system. In the Ango American system there are not judges with specific administratice expertise.

The perception in public regarding the independence of the courts and the judiciary in general

At the end, perception matters as much as principles, as justice must not only be done but it must also be seen to be done[23]
Figure 1: How the Public Rates Courts for Independence
Perceived independence of national justice systems in the EU in May 2018 in percentage



Source: European Commission

Rightly, or wrongly, there's a perception among the public that the government and the legislation power are able to influence on court decisions.

[23] Anne Richardson Oakes and Haydn Davies, Justice must be seen to be done : A contectual reappraisal, www. Adelaide.edu.au.

In the administrative judiciary, this perception amplifies this problematic as the state authority is a party in administrative litigation.

A new Eurobarometer survey has found that public perceptions of the independence of national justice systems in general, which includes the perception of administrative courts, too, vary in difference directions across the European Union[24]. The research found that in European Countries, 45 percent rated the level of independence enjoyed by the courts as "fairly good", 11 percent said it is "very good" and 32 percent said either "very bad" or "fairly bad". Countries in northern Europe are most likely to perceive their justice systems as independent with Denmark and Finland at the top of the ranking. [25]

Respondents who rated the justice system in their country positively - in terms of the independence of courts and judges - were asked about the extent to which the status of judges, a lack of interference or pressure from governments or politicians or from economic or special interests explained their good rating of the independence of the courts and judges in their country. Almost eight in ten say the fact that the status and position of judges sufficiently guarantee their independence explains their positive rating. Almost two thirds (64%) say a lack of interference or pressure from government and politicians explains their rating, with 21% saying this very much explains their rating. Almost as many (63%) say a lack of interference or pressure from economic or other specific interests explains their rating, with 20% saying this very much explains it.[26]

Interference or pressure from governments and politicians is the most mentioned reason for respondents to rate the level of independence of courts and judges in their country as bad Respondents who rated the level of independence of courts and judges in their country as bad (replying "fairly bad" or "very bad") were asked to what extent their rating could be explained by the following reasons: the lack of guarantees provided by the status and position of judges, interference or pressure from governments or politicians or interference or pressure from economic or special interests explained their rating9 . More than seven in ten of these respondents (72%) say interference or pressure from government and politicians explains why they rate the independence of the justice system in their country as bad. In fact, 46% say this 'very much' explains their rating. Almost as many (69%) say interference or pressure from economic or other specific interests explains their rating, with 37% saying this 'very much' explains it. Almost six in ten say the fact that the status and position of judges do not sufficiently guarantee their independence is the reason for their poor rating of their national justice system (58%), with almost one quarter (23%) saying this 'very much' explains their rating. Compared to 2017, respondents are now slightly less likely to say interference or pressure from economic or other specific interests (-3 pp) explains why they rate the independence of courts and judges in their country as bad, with results returning to the level seen in 2016.. Other results have remained largely stable®

[24] www.statista.com.

[25] Flash Euro barometer 461, Report Perceived independence of the national justice systems in the EU among the general public, May 2018.

[26] Positive Assessments, Report Perceived independence of the national justice systems in the EU among the general public, May 2018, Page 11.

Conclusions and Recommendations

1. Administrative Justice in special and Justice in general should be transparent and information should be published in the functioning of the judicial system.
2. The countries that aspire to improve the independence should have dedicated authorities, separated and independent from legislative and executive powers, with the function of appointing judges, ensuring their inviolability in order to ensure fast and efficient access to dispute resolution;
3. Judges must decide with reasonable arguments, clear for the public and interested parties, announced within a reasonable time, based on fair and public trial.
4. Judges should be ruled only by their inner conviction created by respecting the Constitution and the applicable law in order to have decisions that guarantee the respect of the human rights.

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