

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.

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