

European Administrative Judiciary

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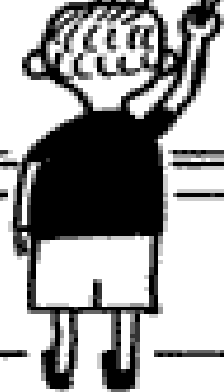
- ▶ Assistant Professor at the Faculty of Law of the University of Belgrade (2008-)
- ▶ Teaching Administrative Law, Procedural Administrative Law and Comparative Judicial Control of Administration
- ▶ PhD thesis “Administrative Dispute of Full Jurisdiction (*Contentieux de pleine juridiction*) – Models and Types”
- ▶ Special Adviser to the Minister of Justice and Public Administration (2013 - 2014)
- ▶ World Bank Consultant on Administrative Courts System within the Ministry of Justice (2014)
- ▶ Member of the working parties in charge of drafting the General Administrative Procedure Act, PAR Strategy, Administrative Disputes Act

Everyone seems
normal
until you get to
know them.

O P Q R S T U V W X Y Z

$$1 + 1 = 2^* \quad * \text{Disclaimer:}$$

Timmy, dear,
it doesn't need
a disclaimer.



Poland & Serbia



Polegaj jak na Zawiszy
Zawisza Czarny – 1428 Golubac



First Serbian Uprising 1804



Ludwik Hirszfeld

1915



Tadija Sondermajer

1892 - 1967





Administrative Legal Tradition



Austrian Allgemeines Verwaltungsverfahrensgesetz 1925



Judicial Protection in EU


The Basics

COURT OF JUSTICE OF EU (CJEU)





CJEU

- ▶ CJEU:
 - ▶ European Court of Justice (ECJ):
 - ▶ 28 judges and 11 advocates general
 - ▶ General Court:
 - ▶ 47 (56) judges
- 

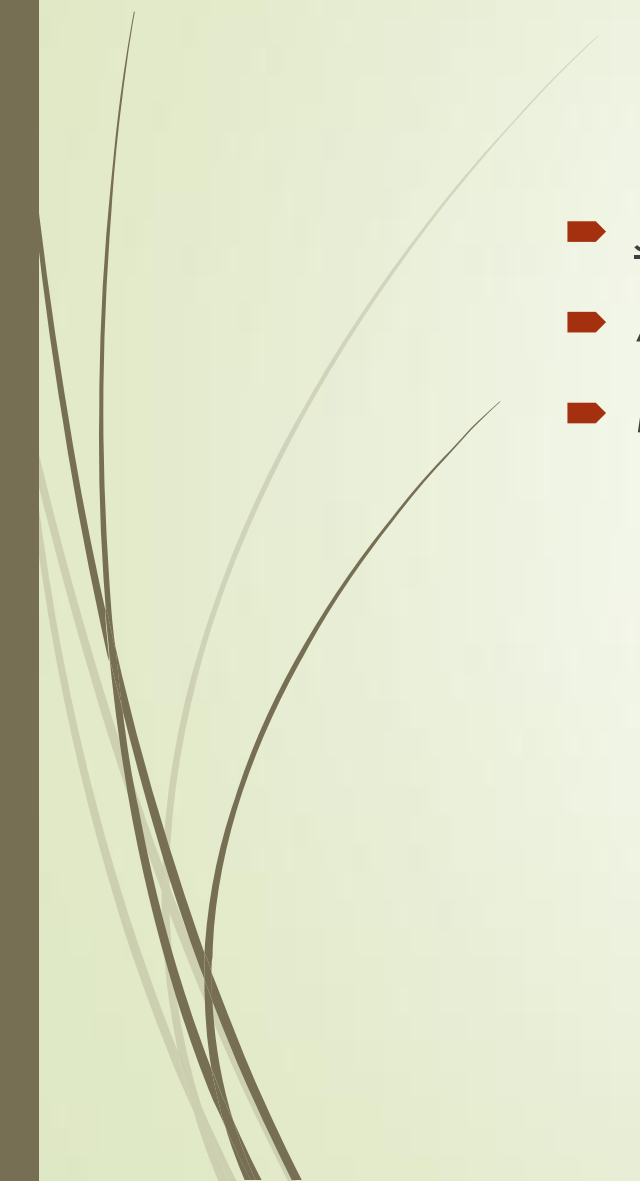


EJC

- Jurisdiction:
- Interpreting EU law - preliminary rulings (national courts)
- Enforcing EU law – infringement proceedings, against Member State (EC, Member State)
- Annulling EU legal acts – actions for annulment (Member State government, EC, EP, CEU)
- Appeals in annulment proceedings
- Actions for failure to act – EU institution silence (Member State government, EC, EP, CEU)
- Actions for damages – sanctioning EU institutions (individuals and companies)



General Court

- Jurisdiction:
 - Actions for annulment brought by individuals and companies
 - Mainly competition law, state aid, agriculture, trade marks
- 



Administrative Judiciary and Entrepreneurship



Special Policy Domains

- Commercial registers
 - Permits for production, trade and performing other commercial activities
 - Taxes and customs
 - Building permits
 - Professional licenses
 - Competition
 - State aid
 - IP (Copyright, trademark, patent)
- 



European Administrative Judiciary

- The Basics -

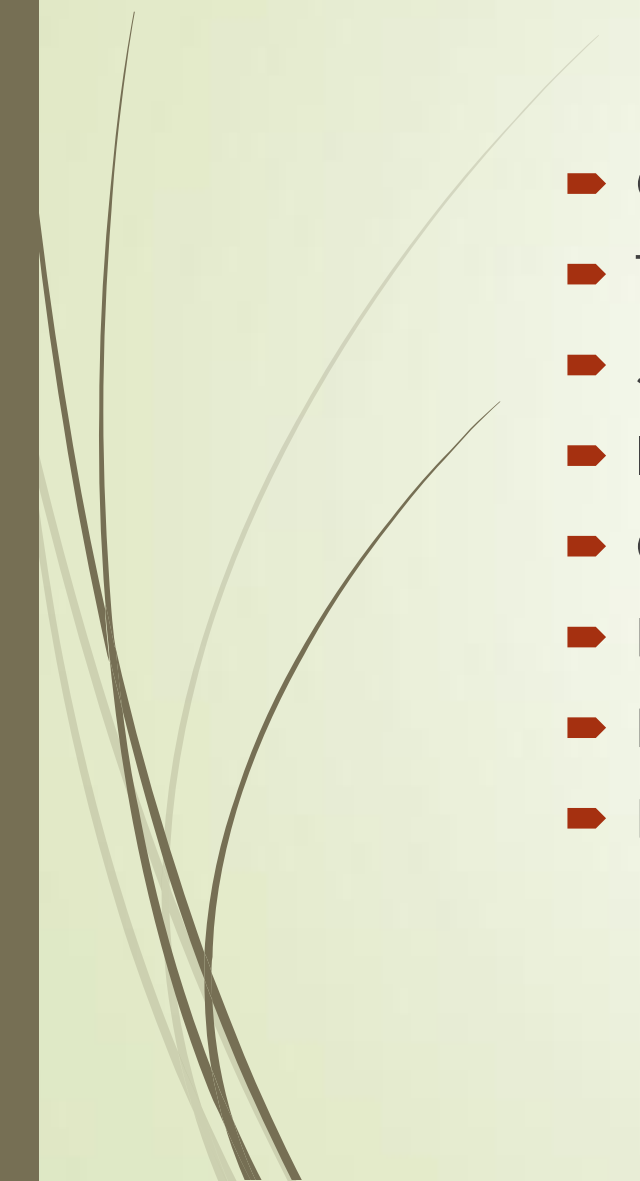


Administrative Judiciary

Building blocks



Key Issues

- Organization and Jurisdiction of AJ
 - Type of Lawsuits (Acts, Claims)
 - Judicial Control of Discretionary Acts
 - Interim Measures
 - Oral Hearings
 - Decisions (Types, Scope, Execution)
 - Legal Recourse
 - Relation to Administrative Procedure
- 



Administrative Judiciary

Models

Fromont

Criterion:

- Controlling Entities
- *Conseils d'Etat* (e.g. France, Italy, Greece)
- Administrative Courts (e.g. Germany, Austria)
- Ordinary Courts (Common Law Countries)

Conseil d'Etat Systems

Administrative Courts Systems

Ordinary Court Systems

Braibant

Criteria:

- Special judicial order for the administration
- Controlling entities

1. England, Austria (till 2014)
2. Hungary, China, Serbia (till 2010)
3. Poland, Indonesia, Mexico
4. Germany, Austria (since 2014)
5. France, Italy, Greece, the Netherlands, Belgium
Egypt, Liban

Monistic Systems

1. Quasi-judicial entities

2. Special panels of ordinary courts

3. Special administrative courts subjected to common supreme court

Dualistic Systems

4. Branch of Administrative courts

5. *Conseil d'Etat*

Lemasurier

Criterion:

- Types of administrative disputes judged
 1. Administrative courts resolve all administrative disputes
 2. Ordinary courts resolve all administrative disputes
 3. Administrative and ordinary courts resolve administrative disputes

French Model

Common Law Model

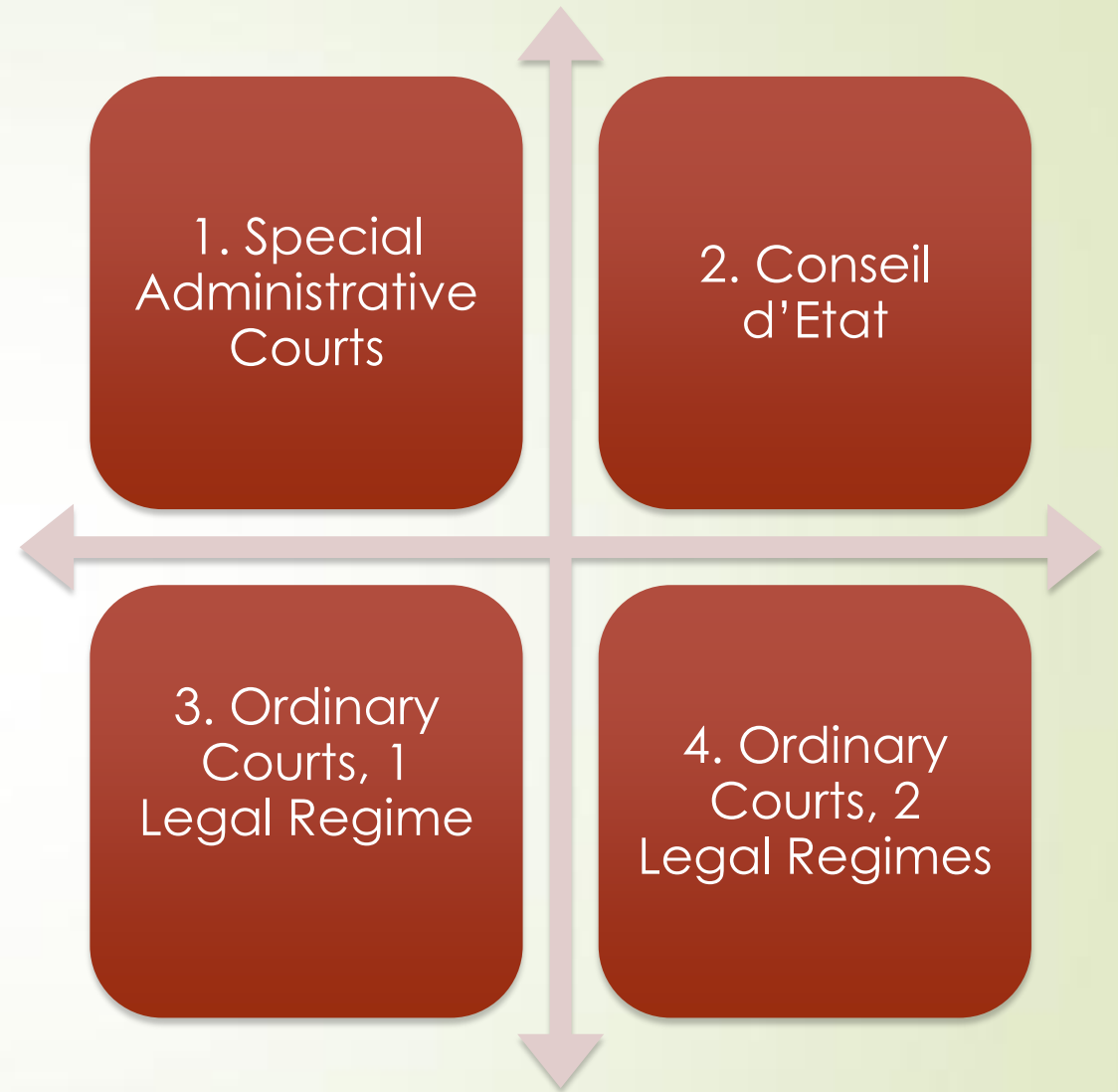
Mixed Model

Guyomar / Seiller

Criteria:

- Controlling entities
- Special rules for administrative disputes

1. Germany, Austria
2. France, Italy, Belgium, the Netherlands
3. Common Law countries
4. Spain, Bosnia and Herzegovina, Croatia, Montenegro, Serbia, Slovenia



Thank you for your attention! 😊

Dziękujemy za uwagę! 😊