

Comparative Administrative Law (CAL)

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Legitimate Expectations



Legal Sources



Legitimate Expectations

General questions

- 1. What are "legitimate expectations" (categories, e.g. formal in substance; prerequisites, e.g. basis, good faith, action, damage etc.)?**
- 2. How do legitimate expectations differ from other administrative law principles (reasonableness, proportionality etc.)?**
- 3. Should legitimate expectations be accepted as an administrative law principle? If so to what extent? What are the likely consequences (and dangers) of such a doctrine?**



Legitimate Expectations: Chiu Teng @ Kallang Pte Ltd v Singapore Land Authority

Chiu Teng @ Kallang Pte Ltd v Singapore Land Authority [2013] SGHC 262

- Case Number** : Originating Summons No 457 of 2013
- Decision Date** : 27 November 2013
- Tribunal/Court** : High Court
- Coram** : Tay Yong Kwang J
- Counsel Name(s)** : Alvin Yeo SC, Lim Wei Lee, Lionel Leo and Edmund Koh (WongPartnership LLP) for the applicant; Edwin Tong, Kristy Tan and Peh Aik Hin (Allen & Gledhill LLP) for the respondent; Aurill Kam, Lim Wei Shin, Terence Ang and Leon Ryan (Attorney-General's Chambers) for the Attorney-General.
- Parties** : Chiu Teng @ Kallang Pte Ltd — Singapore Land Authority

Administrative Law – Judicial review



Legitimate Exceptions

X v Conservatory of the Canton of Fribourg

137 I 69

7. Auszug aus dem Urteil der II. öffentlich-rechtlichen Abteilung i.S. X. gegen Konservatorium und Direktion für Erziehung, Kultur und Sport des Kantons Freiburg (Beschwerde in öffentlich-rechtlichen Angelegenheiten)

2C_120/2010 vom 16. Dezember 2010

Regeste

Révocation d'une décision initialement erronée; **art. 9 Cst.**

Une autorité de surveillance peut aussi révoquer une décision rendue par l'autorité soumise à sa surveillance (consid. 2.1).

Conditions de la révocation:

- confrontation entre l'intérêt à l'application correcte du droit et l'intérêt à la protection de la bonne foi - pour autant que les conditions de celle-ci soient remplies (consid. 2.2 et 2.3);
- examen des conditions auxquelles la bonne foi est protégée (consid. 2.5);
- pesée des intérêts (consid. 2.6).



Legitimate Expectations

X v Conservatory of the Canton of Fribourg

Questions to the Decision

- 1. What principles should be considered in cases of legitimate expectations?**
- 2. Which of these principles is the court's opinion based on?**
- 3. Do you agree with those arguments?**



Good Administration (Optional)



Good Administration



Good Administration

Article 41 EU-CFR

Article 41

Right to good administration

1. Every person has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions and bodies of the Union.
2. This right includes:
 - the right of every person to be heard, before any individual measure which would affect him or her adversely is taken;
 - the right of every person to have access to his or her file, while respecting the legitimate interests of confidentiality and of professional and business secrecy;
 - the obligation of the administration to give reasons for its decisions.
3. Every person has the right to have the Community make good any damage caused by its institutions or by its servants in the performance of their duties, in accordance with the general principles common to the laws of the Member States.
4. Every person may write to the institutions of the Union in one of the languages of the Treaties and must have an answer in the same language.



Good Administration

Article 41 EU-CFR

Questions to the Article

- 1. What are the advantages and disadvantages of codifying the right to good administration as a fundamental right?**
- 2. Do you think there is something missing in the article that you think would be for “good administration”?**
- 3. Are there further guarantees codified as fundamental rights in your country to ensure “good administration”?**



Good administration

Sytraval and Brink's France v Commission

JUDGMENT OF 28. 9. 1995 — CASE T-95/94

JUDGMENT OF THE COURT OF FIRST INSTANCE
(Fourth Chamber, Extended Composition)
28 September 1995 *

In Case T-95/94,

Chambre Syndicale Nationale des Entreprises de Transport de Fonds et Valeurs (Sytraval), an association governed by French law, and

Brink's France SARL, a company incorporated under French law,

represented by Jean-Michel Payre, of the Paris Bar, with an address for service in Luxembourg at the Chambers of Aloyse May, 31 Grand-Rue,

applicants,

Commission of the European Communities, represented by Michel Nolin and Ben Smulders, of the Legal Service, acting as Agents, with an address for service in Luxembourg at the office of Carlos Gómez de la Cruz, of the Legal Service, Wagner Centre, Kirchberg,

defendant,



Questions to the decision

- 1. What is the procedural significance of the right to receive reasons?**
- 2. Can you think of instances in which the reasons given must be more detailed than in other cases?**
- 3. Can you think of constellations in which the right to receive reasons may be abused?**

Good Administration: European Ombudsman Annual Report



Good Administration: Article 41 EU-CFR

Questions to the Report

- 1. What is in the report considered as “good administration”?**
- 2. Do you agree with that?**
- 3. What else would you understand under “good administration”?**

