

Abstracts

Between responsive law and formalisation – the General Administrative Law Act as the Trojan horse

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The General Administrative Law Act (enacted on 1 January 1994) provides general guidelines for all administrative procedures. Prior to its enactment, public authorities and politicians feared that the implementation of this law which aims at a more horizontal relation between citizens and public authorities would entail tremendous burdens for public authorities. Thus, each guideline has been accompanied with stipulations and exceptions that render the law more applicable.

After four years, it is clear that application of these stipulations and exceptions not only decreases the cost of implementation, but also impairs the effective functioning of the general guidelines. The result is a process of formalisation that runs counter to the original goals of the legislator. This imperfect implementation can only in part be attributed to a lack of experience. As yet, the law does not live up to its goals.

Understanding the policy impact of administrative courts and the National ombudsman in the Netherlands

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Aside from providing individual redress, the rulings of administrative courts and those the National ombudsman are also expected to produce administrative policy changes that have consequences reaching into the future and beyond the particular decision complained against. This paper analyses this assumption. Lawyers suggest that a controller's policy impact is primarily determined by the legal force of his rulings. However, empirical research demonstrates that this position needs adjustment. In this paper an alternative approach is suggested, that focuses on the style of control of both the courts and the ombudsman. An exploratory study was conducted at two administrative agencies in the Netherlands. In both agencies the decision-making process was analyzed, in which the rulings by the courts and the ombudsman are implemented. This paper suggests that the emergence of barriers for policy impact during this process can be explained by the 'repressive' or 'reflexive' style of control of the courts and the ombudsman.

The appeal procedure in Dutch administrative law: a critical review of recent developments

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Citizens should, in case of disagreement with a decision taken by a public authority seek redress by filing an objection with the authority that has given the decision before lodging an appeal with an administrative court. Traditionally, in the Netherlands, such objection procedures have been relatively informal, offering the authority an opportunity to review its original decision. These last decades, however, the objection procedure has

steadily developed into an independent procedure of appeal. As safeguarding the citizen against the powerful administration takes priority over administrative review, administrative decision procedures are separated from objective procedures, procedurally as well as organizationally. This article reviews the possibly paradoxical consequences of these developments in areas where the relation between citizens and administrations is extensive.