

DROIT DE LA PREUVE (DROIT PUBLIC)

Examen : liste de questions à préparer

CHAPITRE I – LE DROIT ET LE FAIT

La question de la preuve est **primordiale**.

Il faut que **les faits** correspondent aux critères et notions figurant dans la règle de droit.

En droit public, la question de la preuve est **négligée**.

Dans l'immense majorité des cas, **le mot preuve ne figure pas dans les manuels de droit administratif ou de contentieux administratif**.

Quelques **thèses** ont tout de même été **consacrées à la preuve** dans le contentieux administratif :

- **Pactet, 1952**
- **Colson, 1970**
- **Foulquier, 2008**
- ...

Dans le cadre du contentieux administratif, la question de la preuve est **déterminée par le cadre même du contentieux administratif** :

- L'une des parties est **nécessairement une administration**
- L'autorité administrative est dans l'immense majorité des cas **le défendeur**

De plus, le contentieux administratif **permet de contrôler l'administration**.

Mais peut-on contrôler l'administration comme n'importe quel justiciable ?

Non, car l'administration est **la principale expression du pouvoir exécutif**.

Prosper WEIL : « *Le droit administratif et le contentieux administratif est un miracle dont les effets ne se produisent que par un prodige chaque jour renouvelé.* »

Pourquoi le contrôle de l'administration est extraordinaire ?

Tous les jugements sont **assortis de la formule exécutoire** : la force publique est utilisée pour exécuter le jugement.

L'exécution du jugement **dépend de l'emploi de la force publique**.

Or, **la force publique est l'administration**.

Entrainement Nouvelle Preuve Droit Public

JA Banks



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Histoire-Géographie 1re L, ES, S - Prébac Cours & entraînement Christophe Clavel, Cécile Gintrac, Florence Holstein, Mathieu Martinez, 2016-01-06 Un outil de travail particulièrement complet et efficace Pour vous accompagner en histoire géographie tout au long de votre première et vous préparer au bac Sur chaque thème du programme de 1re vous trouverez un cours structuré et illustré des fiches de méthode des quiz de validation des connaissances des exercices progressifs dont des exercices Vers le bac tous les corrigés détaillés Avec ce Prébac vous pouvez également bénéficier d'un accès gratuit toutes les ressources du site <http://www.annabac.com> fiches de cours podcasts quiz interactifs sujets d'annales corrigés

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Omnia , 1907 **Oeuvre du droit révolutionnaire en matière de filiation naturelle ...** Camille André, 1906

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