

Date: \_\_\_\_\_



## Syllabus - Teaching Program for the Course

# Administrative Law

**Dr. Ori Aronson | Faculty of Law**

999177-01

<b>Course Type:</b>	Class lecture
<b>Scope of credits:</b>	4
<b>Year of study:</b>	1
<b>Semester:</b>	B
<b>Day &amp; Time:</b>	Mon 12-14, Thurs 12-14
<b>Reception Time:</b>	By appointment
<b>Lecturer Email:</b>	<a href="mailto:ori.aronson@biu.ac.il">ori.aronson@biu.ac.il</a>
<b>Moodle Site:</b>	



## Course description and learning goals

### Course Abstract

The course provides an introduction to the legal framework governing the powers of the executive and administrative branches in Israel. A mostly judge-made legal field that pertains to practically any act of government, administrative law involves insights from constitutional law, political theory, public choice, regulation, organization studies, and judicial studies. While acquainting the students with the central doctrinal features of Israeli administrative law, the course will also expose them to the broader theoretical context in which it operates.

### Learning objectives

#### Knowledge

1. Learners will develop a familiarity with the central theoretical conceptualizations of the administrative state and the administrative process, and with the main normative categories that dominate administrative law.
2. Learners will develop a familiarity with the central doctrinal features of Israeli administrative law, including the limits of executive power, the administrative process, and administrative discretion.

#### Skills

1. Learners will critically analyze notable Supreme Court decisions that have defined and developed Israeli administrative law over the year
2. Learners will develop argumentative skills in administrative law and exercise their deployment in diverse legal contexts.



### Active learning – planning the course of the lessons:

Learners will exercise regularly the application of administrative law doctrines to varying case scenarios. The scenarios will be generated by the course's AI-driven chatbot, which the learners will prompt on the bases of current events culled from ongoing news reports.

Several of the course's sessions will include meetings with legal advisors, retired judges, and regulators, who will share their experiences of administrative law in action.



## Formative Assessment

Description of the product	Weight in the final score
Developing and presenting two case scenarios during the course	20%
Active participation in class discussion which contributes to group learning	10%



## Final grade

### Components of the score:

**Formative assessment** – 30%

**Concluding Exam** – 70%

The exam will include a case analysis and a policy analysis question.



## Course requirements

- **Assignments** – developing and presenting two case scenarios
- **Attendance** – mandatory in all classes.

## Bibliography:



1. Introduction: the scope and purpose of administrative law
    - a. The administrative state
    - b. Bureaucracy, public choice, democracy, and rights
    - c. constitutional law and administrative law
    - d. The types of administrative powers: executive, legislative, adjudicative
    - e. Privatization and globalization
  
  - Legislation:
    - Basic Law: The Government
    - Basic Law: The Judiciary, § 15
    - Government Law, 2001, § 10
    - Interpretation Law, 1981, §§ 11-17
    - Interpretation Ordinance [New Version], §§ 16-17
    - Freedom of Information Law, 1998
    - Administrative Tribunals Law, 1992
    - Courts Law [Combined Version], 1984
    - Administrative Courts Law, 2000
  
  - Daphne Barak-Erez, *Israeli Administrative Law at the Crossroads: Between the English Model and the American Model*, 40(1) ISRAEL LAW REVIEW 56 (2007)
  
  - Tom Ginsburg, *Written Constitutions and the Administrative State: On the Constitutional Character of Administrative Law*, in COMPARATIVE ADMINISTRATIVE LAW 60 (2d ed., Susan Rose-Ackerman et al. eds, 2017)
  
  - Yoav Dotan, *Informal Privatization and Distributive Justice in Israeli Administrative Law*, 36 HAMLINE LAW REVIEW 27 (2013)
  
  - Adam Shinar, *Israel's External Constitution: Friends, Enemies, and the Constitutional/Administrative Law Distinction*, 57 VIRGINIA JOURNAL OF INTERNATIONAL LAW 735 (2018)
  
  - DAVID KRETZMER & YAËL RONEN, *Local Law, Military Orders and Administrative Law*, in THE OCCUPATION OF JUSTICE: THE SUPREME COURT OF ISRAEL AND THE OCCUPIED TERRITORIES 41-54 (2d ed., 2021)
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2. The administrative authority
    - a. The principle of administrative legality
    - b. Primary arrangements (non-delegation) doctrine

- c. Government's residual powers
- d. Ancillary powers and inherent powers
- e. The duty to exercise an authority

- HCJ 5100/94 Public Committee Against Torture v. The Government of Israel (1999), §§17-23
- HCJ 3267/97 Rubinstein v. Defense Minister (1998), §§ 19-26
- HCJ 11163/03 High Supervision Committee v. Prime Minister (2006), Cheshin §§ 5-39
- HCJ 3914/92 Lev v. Tel Aviv Regional Rabbinical Court (1994)
- HCJ 1711/24 Movement for Quality of Government v. Justice Minister (2024)

### 3. Administrative discretion

- a. The principle of discretionary independence
- b. Delegation and assumption of powers
- c. Internal guidelines and policies
- d. Factual foundations and experimentation
- e. Relevant and irrelevant considerations
- f. Reasonableness, proportionality, equality
- g. Finality

- HCJ 70/50 Michlin v. Health Minister (1950)
- HCJ 5016/96 Horev v. Transportation Minister (1997), Cheshin §§ 41-43
- HCJ 5031/10 Ir Amim v. Nature and National Parks Authority (2012), Hayut §§ 1-3, 16-23
- HCJ 5658/23 Movement for Quality of Government v. Knesset (2024), Hayut §§ 111-178
- 4541/94 Miller v. Defense Minister (1995)
- HCJ 2887/04 Abu Madigam v. Israel Lands Administration (2007), Arbel §§ 35-45

### 4. The administrative process

- a. The right to a fair hearing
- b. Prejudice and conflict of interest
- c. The duty to provide reasoning

d. Transparency, freedom of information, and public participation

- HCJ 5973/92 Association for Civil Rights v. Defense Minister (1993)
- HCJ 15/19 Hazkani v. ISS (2021), Hayut §§ 7-17
- HCJ 5215/17 Kav La'Oved v. Labor Ministry (2019), Barak-Erez §§ 15-16, 27-28
- HCJ 4845/17 Hamdan v. Attorney General (2019), Groskopf §§ 20-22, Karra §§ 23-26

5. The results of violation

- a. voidness, voidability
- b. relative voidness

- HCJ 5303/16 German v. Health Minister (2018), Vogelmann §§ 21-26

6. Judicial review

- a. Jurisdiction: High Court of Justice and other courts
- b. Threshold doctrines: standing, justiciability, laches, ripeness, good faith