

Research on French Administrative Tierce-Opposition

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Abstract

The third-person opposition proceeding, or so called “la tierce-opposition”, is an *extraordinaire* remedy approach which refers a third person to the judicial judgment that already exists and has the *res judicata* between others, even in theory, the third party is not effected by the judgement, and out of the scope of *res judicata*. As one of the characteristics of the French civil procedure legal system, the French administrative litigation legal system is also faced with the relevant discussion on whether to allow the parties to file this lawsuit. However, such institutional disputes face the essence of administrative litigation. In particular, ultra-authority litigation or revocation of litigation does not seem to be set up to protect the rights of relatives. Can it be infringed on the rights of third parties in such judgments, which is an important dispute in theory. This article intends to start from the adjudication of the third party's revocation of litigation caused by the judgment of the French Conseil d'Etat in the case Bousuge in 1912. It not only explores the institutional logic of the administrative third party to revoke the litigation, but also discusses subjective litigation and objective litigation for the administrative relief system. In fact, such a discussion means that an administrative remedy system is always facing the issue of scope : universal or individual. Since the administrative tribunal is competent to annuler an administrative decision, such a competence will be realized as the tribunal has an equal power to administrative rules. In 1999, Taiwan has introduced an remedy system for the third party of administrative jurisprudences. But this newly introduced system always brings problems of practice, even the system itself. Finally, this article will compare the "re-trial" system in Taiwan's administrative litigation law, and consider the possible effect

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of the French administrative third-person opposition proceeding on Taiwan's administrative remedy legal system.

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