

Comparative Administrative Law (CAL)

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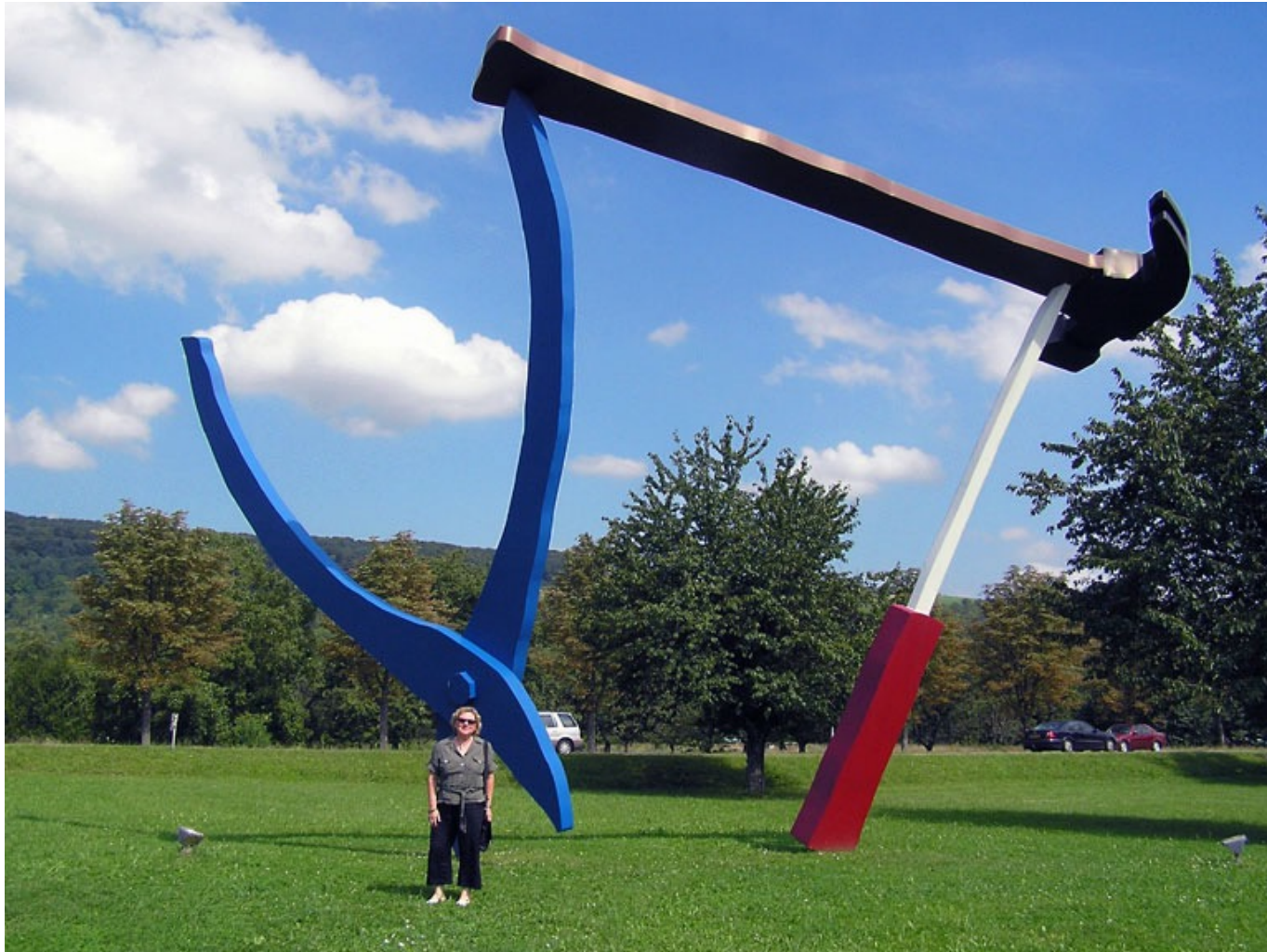
University of Zurich

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Principles



Principles



Principles: Article 5 Federal Swiss Constitution

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English is not an official language of the Swiss Confederation. This translation is provided for information purposes only and has no legal force.

Federal Constitution of the Swiss Confederation

of 18 April 1999 (Status as of 7 March 2021)

Art. 5 Rule of law

- ¹ All activities of the state are based on and limited by law.
- ² State activities must be conducted in the public interest and be proportionate to the ends sought.
- ³ State institutions and private persons shall act in good faith.
- ⁴ The Confederation and the Cantons shall respect international law.



Principles: Article 5 Federal Swiss Constitution

Questions to the article

- 1. What principles are stated in this article?**
- 2. Do you think that some principles are missing?**
- 3. At what level (parliamentary act, constitution) are these principles regulated in your country?**



Principles

General Questions

- 1. What do we understand by the principle of legality?**
- 2. What do we understand by the principle of proportionality?**
- 3. How do these principles affect our understanding of the role of courts and administration?**



Principles: Bank Mellat No 1



Trinity Term
[2013] UKSC 38
On appeal from: [2011] EWCA Civ 1

JUDGMENT

Bank Mellat (Appellant) v Her Majesty's Treasury (Respondent) (No. 1)



Principles: Bank Mellat No 1

Questions to the Decision

- 1. What principles are behind the court's arguments?**
- 2. Would you agree with the argumentation?**
- 3. Are there other principles you would consider in your country?**



Principles: Bank Mellat No 2



Trinity Term
[2013] UKSC 39
On appeal from: [2011] EWCA Civ 1

JUDGMENT

Bank Mellat (Appellant) v Her Majesty's Treasury (Respondent) (No. 2)



Principles: Bank Mellat No 2

Questions to the Decision

- 1. What other principle(s) does the Supreme Court consider to be related to the principle of proportionality?**
- 2. How does the principle of proportionality differ from the principle of proportionality as understood in your country?**
- 3. Do you agree with the application of the principle of proportionality in the matter?**

