

Comparative Administrative Law (CAL)

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Introduction



Introduction

28.02.2023	Introduction and Sources
07.03.2023	Public - Private
14.03.2023	Administrative Action and Administrative Discretion
21.03.2023	Principles
28.03.2023	Legitimate Expectations and Good Administration
28.04.2023	Deadline for students' proposals (case and topic)
01.06.2023	Students' Presentations
02.06.2023	Students' Presentations



Introduction

The course is divided in two parts. At the beginning of the semester, students will be introduced to the typical topics of administrative law and discuss cases. In the second part, they will present a case from their home country (or from elsewhere) and discuss it in class (likewise the earlier cases). This will be the exam. Participation in class will be mandatory and be taken into account for the final mark (33 %).

On the website you will find the reader on which the lecture is based as well as an overview of Swiss Administrative Law and Procedure. The slides will also be available on the website (usually at least one week before the lecture).



Introduction



Introduction

What are we looking for?

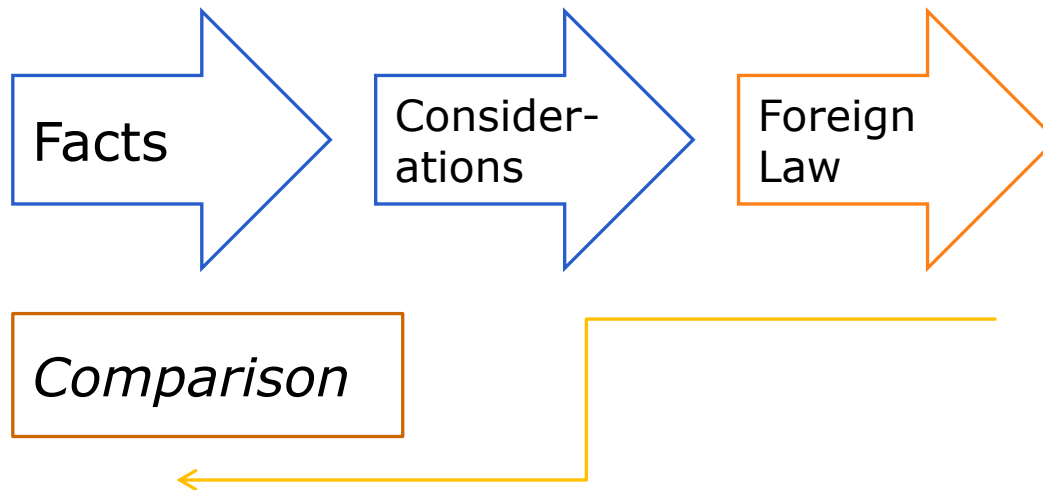
Many countries struggle with the amount of regulation that administrative authorities must implement. Although the subject areas of such regulation are quite diverse, the implementation is usually guided by some general rules, often unwritten. These rules form what is called "Administrative Law" (or "General Administrative Law").



Introduction

How do we compare?

- Institutions (e.g. regulatory agencies)
- Laws (e.g. administrative procedure)
- General Principles (e.g. rule of law)
- **Cases** (mostly)



Introduction

How do we compare?

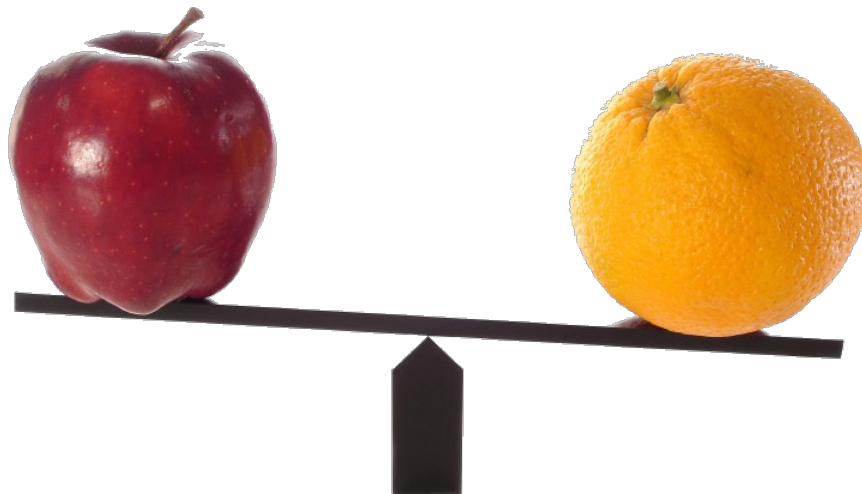
The course looks into these rules from a comparative perspective. Common problems that may arise in the administrative context are illustrated by cases and other materials. Students are asked to comment on these cases and compare them – if possible – to their own legal background.



Introduction

Why do we compare?

- Knowledge of foreign jurisdictions
- New questions
- **Critical Assessment of one's own jurisdiction**
- "Best Practices" in Administrative Law?



Sources



Sources



Sources: General Questions

Codification of General Administrative Law

It has hardly been researched which consequences arise from the different degree of codification of the general administrative law.

Does codification increase orientation, predictability and legal certainty? Does the codification lead to a "petrification" of general administrative law? Does codification enhance the legitimacy of administrative law? To which degree does the constitution shape administrative law and will there be conflicts in case of codification? Can uniformity be achieved only by codification?

Which areas of general administrative law are suitable for a codification, which are not, and why and why not?



Sources: General Administrative Law Act (NL)

The Constitution of the Kingdom of the Netherlands 2008

Article 107

1. Civil law, criminal law and civil and criminal procedure shall be regulated by Act of Parliament in general legal codes without prejudice to the power to regulate certain matters in separate Acts of Parliament.
2. The general rules of administrative law shall be laid down by Act of Parliament.

Grondwet voor het Koninkrijk der Nederlanden van 24 augustus 1815

Artikel 107

1. De wet regelt het burgerlijk recht, het strafrecht en het burgerlijk en strafprocesrecht in algemene wetboeken, behoudens de bevoegdheid tot regeling van bepaalde onderwerpen in afzonderlijke wetten.
2. De wet stelt algemene regels van bestuursrecht vast. 108 [Vervallen per 25-03-1999]



Sources: General Administrative Law Act (NL)

General Administrative Law Act (NL)

1. Is the Dutch General Administrative Law (GALA) covering the topics you consider as (General) Administrative Law? What is missing? Which parts of the GALA would you *not* consider Administrative Law?
2. Which rules are codified in your country?
3. If not codified: what is the source (Constitution, Court practice etc.)?
4. What are the consequences of codification? / What are the consequences of having Administrative Law in other forms?
5. (What differences do you see in substance to your country?)

