

# § 1 Introduction

## I. Why studying administrative law with a comparative approach?

- for a *better understanding* of the own administrative law, its particularities (and the alternatives), its strong and weak points and the perspectives of its development
- as a *source of inspiration*: public administration in different countries often faces similar problems and legal solutions developed in one country may be useful in others too
  - you do not need to reinvent the wheel...
- in the field of admin. law, comparison of laws is *more interesting than in other fields of law* (e.g. family law) because admin. law is less dominated by the national cultural background but more influenced by the principles of rule of law, good governance and efficiency
- a long history of *legal reception*: in the field of admin. law, many countries have successfully adopted legal concepts, instruments, legal institutions and even structures from countries with a more developed legal system
  - example: the reception of concepts and institutions from German admin. law in East Europe (e.g. Latvia) in the nineties and in Kazakhstan in the 2020s
  - spectacular example: the reception of important elements of French admin. law by the enemy Germany at the end of the 19<sup>th</sup> century via the Strasbourg scholar OTTO MAYER
  - note, however, that a simple "copy and paste" will usually fail: the *foreign concepts must first be adapted* to the particularities and the systematic of the national legal order
- *not only the success stories* but also the failures of foreign admin. law are interesting
  - you must not repeat the mistakes of others...

## II. The common background: the commitment of public administration in a free and democratic constitutional state to the rule of law and the respect of fundamental rights

- numerous principles and standards of modern admin. law derive directly from the principle of the rule of law/Rechtsstaat/État de droit/negara hukum in *every* country committed to it
  - however, not all of them have been implemented in every country yet...
- admin. law must *ensure effectively the respect of the constitutional fundamental rights* and of the human rights anchored in international treaties; lessons drawn from the long experience of the (West) European countries may be helpful