

**ADMINISTRATIVE LAW**

Contribution to the course from the perspective of comparison of laws

**Contents**

**Preliminary remark:** At the Faculty of Law of Universitas Gadjah Mada the courses are shared by several lecturers. This table informs about the contents of my lectures on 10.03., 12.03., 17.03., 05.05. and 07.05.2020. They complement those of the colleagues from the perspective of comparison of laws with a special focus on German administrative law.

**§ 1 Introduction**

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

**§ 2 The elements of the legality of the administrative decision**

- I. Backgrounds: the administrative decision [or "administrative act"] as most important instrument of public administration
- II. Legality and validity of administrative decisions
- III. Legality and expediency of administrative decisions
- IV. The heterogeneous structure of the examination of the legality of administrative decisions
- V. The basic structure of the examination of the legality of admin. decisions in French law, European Union law and German law
- VI. The elements of legality in detail - the example of Germany
  - with practical case study

**§ 3 The legal sources of administrative law**

- I. Introduction
- II. The highest legal source: the Constitution
- III. International treaties
- IV. Statutory law
- V. Statutory instruments, statutory regulations, ordinances
- VI. By-laws
- VII. Customary law
- VIII. General principles of administrative law
- IX. No source of law in a continental legal system: court decisions
- X. No source of law: administrative provisions

**§ 4 The structure of central and local government**

- I. The decision for a unitarian or federalist system
- II. The decision for centralism, decentralisation or local and regional autonomy
- III. The distinction between the gubernative and administrative functions of the executive
- IV. The structure of "central" government - the example of Germany

- V. The structure of local government - the example of Germany
- VI. Special phenomena

### **§ 5 Civil servants law - illustrated by the example of Germany**

- I. The dual system of civil servants and ordinary employees in the public service
- II. The constitutional foundations of civil servants law (art. 33BL)
- III. The principle of equal eligibility for public office and of selection of the best candidates ["Bestenauslese"] (art- 33(2) BL)
- IV. The special status of the public servant and the traditional principles of professional civil service (cf. art. 33(5) BL)
- V. Legal protection for civil servants
- VI. Is civil servants law still up-to-date?

More information on this course contribution at [www.thomas-schmitz-yogyakarta.id](http://www.thomas-schmitz-yogyakarta.id). For any questions, suggestions and criticism please contact me in my office (Building A, room A.IV.11) or via e-mail at [tschmit1@gwdg.de](mailto:tschmit1@gwdg.de).