F. Rozsnyai, Krisztina*

„Handbuch des Verwaltungsrechts" Vol 1–4

I. Introduction

The *Handbuch des Verwaltungsrechts* is a handbook on administrative law that has been published in Germany from 2021 onwards and is planned to have a total of 12 volumes.[1] This scholarly undertaking of around one thousand five hundred pages per volume may fill those who research and teach administrative law outside of Germany with admiration, envy, and sometimes at the same time, even frustration – at least among Hungarians. The editors intend to use these volumes to make a mark for German administrative law abroad, which makes their presentation for a non-German audience all the more justified.

Even though it is a German-language work, the fact that nowhere in the world is the science of public law cultivated with the dogmatic thoroughness and depth as in Germany may also justify the presentation. I would dare to say that the language of (public) jurisprudence is still not exclusively English and, it must be admitted, English legal terminology is not capable of conveying the subtleties that can easily be expressed by German *terminus technici*. There are, of course, serious reasons for this, which are linked to the characteristics of German jurisprudence. German public law doctrine has already had and still has a fundamental influence on many areas, not only on the public law of many countries in Europe, but in fact throughout the world. One of the most – if not the most – obvious recent manifestations of this is the export of German constitutional court doctrine to the practice of many constitutional courts around the world.[2] Like many others, the Hungarian Constitutional Court also relied very heavily on the established practice of the *Bundesverfassungsgericht* in its first two decades, from 1990. If we dig deeper, it is evident that comparative public law existed from the very early beginnings

* F. Rozsnyai, Krisztina, Professor, Eötvös Loránd University, Faculty of Law, Department of Administrative Law.

1 W. Kahl and M. Ludwigs (eds), *Handbuch Des Verwaltungsrechts,* (vol. 1–4., 12 vols, C. F. Müller, München, 2021).

2 A. Voßkuhle, Constitutional Comparison by Constitutional Courts: Twelve Observations from Twelve Years of Constitutional Practice, (2023) (1) *ELTE Law Journal,* 7–22. DOI: https://doi.org/10.54148/ELTELJ.2023.1.7

DOI: 10.56749/annales.elteajk.2023.lxii.18.281

onwards,[3] and German public law always was an eminent source.[4] In the field of administrative justice, which is the subject of my more specific research, the German model has been the most widespread in Europe, not only in the organisation of the courts but also in the institutions of administrative procedural law, which have been adopted in many places.[5] Tellingly, the seminal monograph by Eberhardt Schmidt-Aßmann, the „doyen" of German administrative law on the system-building character of general administrative law, has been published in dozens of languages over the last two decades.[6] Such a wide reception of German dogmatics is, of course, greatly supported by the generous German cultural diplomacy and the numerous scholarship opportunities available.

Equally important is the not insignificant feature that German science funding, even in times of scarcity, is at a level which – to use German public law terms – guarantees the essential content of scientific freedom: university professors have the time and capacity to invest a great deal of energy in research. This is not only because their salaries allow them to avoid having to take on second jobs (something that their international colleagues from numerous countries cannot claim) and they do not have to teach fifteen to twenty hours a week or more, spending much of their time preparing for and giving classes. We should also mention the adequate (even high) level of library provision and, most certainly, the fact that there is always a background of students and postgraduate staff available to German professors, which makes both teaching and research work way more concentrated on core activities. Obviously, the competitive situation among German public law professors is very important as well: university professorship is only conferred by invitation from a university. This certainly enhances the quality of research. Whereas in Hungary there are some dozens of public law professors, the Association of German Public Law Professors, functioning for over a hundred years now, has more than 800 members, which creates immense possibilities

[3] K.-P. Sommermann, The Germanic Tradition of Comparative Administrative Law, in P. Cane et al. (eds), *The Oxford Handbook of Comparative Administrative Law,* (Oxford Handbooks, Oxford, OUP, 2020) 55. DOI: https://doi.org/10.1093/oxfordhb/9780198799986.013.3

[4] For Hungary, it suffices to read the coursebooks published from the 1870s on or scroll the literature on judicial review. Hungarian scholars always demonstrated a vivid interest in German public law. See some historical details in I. Stipta, *Die Herausbildung und die Wirkung der deutschen Verwaltungsgerichtsbarkeit auf den ungarischen Verwaltungsrechtsschutz,* (Rechtsgeschichtliche Vorträge 45.) (ELTE ÁJK Magyar Állam- és Jogtörténeti Tanszék, Budapest, 2006).

[5] K. F. Rozsnyai, Current Tendencies of Judicial Review as Reflected in the New Hungarian Code of Administrative Court Procedure, (2019) 17 (1) *Central European Public Administration Review (CEPAR),* 7–23. DOI: https://doi.org/10.17573/cepar.2019.1.01

[6] E. Schmidt-Aßmann, *Das allgemeine Verwaltungsrecht als Ordnungsidee,* 1. (Springer, Berlin, Heidelberg and New York, 1998) DOI: https://doi.org/10.1007/978-3-662-06446-7. This work (or rather its second edition from 2004) is thus the main "export product" of contemporary German administrative law, dealing with the foundations and tasks of administrative law systems theory, presenting the main topoi of German general administrative law.

for in-depth research. Furthermore, as in Germany there is no artificial separation between the fields of public law, professors of public law can, at the same time, deal with constitutional law, European public law, international law, administrative law and financial law, which also enriches their work in the field of administrative law.

So, if you want to know what is "state of the art" in the science of administrative law, this handbook will be a great help. In a nutshell (or rather in a "watermelon-shell"), it contains the achievements of German administrative law in the first quarter of the 21st century. Even colleagues who do not speak German can get some insight since, at the end of each chapter, there is an English abstract summarising the main theses of the chapter. The handbook not only presents the main achievements of administrative law but also organises this knowledge in a systematic way, which of course brings further synergies and new research topics to the surface. In doing so, it also points the way forward for those involved in the study of administrative law among less fortunate foreign colleagues, in which fields and how research can and should be pursued. It is not my place to analyse the state of Hungarian administrative legal scholarly literature, but it is safe to say that the regular use of the handbook could result in a significant broadening of perspectives and the elimination of many harmful traditions.

II. The dizzying parameters of the handbook

The publication aims to involve a significant part of the German public law community in the enterprise. Some 250, mainly German, public law professors are expected to contribute to the 12 volumes.[7] The two editors, Wolfgang Kahl, professor of public law at the University of Heidelberg, and Markus Ludwigs, professor of public law at the University of Würzburg, are doing a tremendous editorial job. The academic advisory board of the handbook includes eight eminent public law professors, most of whom are or have been members of the highest courts: former President of the Constitutional Court Andreas Voßkuhle (Freiburg i. Br.), former constitutional judges Peter M. Huber (Munich) and Paul Kirchhof, (Heidelberg), as well as Astrid Wallrabenstein (Frankfurt), constitutional judge, and Thomas von Danwitz, judge at the ECJ. Other members are Indra Spiecker genannt Döhmann (Frankfurt) and Sabine Schlacke (Greifswald). It is therefore a mixed committee in terms of both gender and age.

[7] In the volumes published so far, the editors have written a total of 5 chapters each; apart from them, only three authors have two chapters, two of them members of the scientific board of the publication (I. Spiecker gen. Döhmann and S. Schlacke). The gender distribution is also better than in "reality", with about 25% of female authors despite the lower percentage of female professors.

The first four volumes published until the end of 2022 contain a total of 122 chapters,[8] with an average of 30 chapters (§) per volume, divided into 5 and 6 parts respectively.[9] Each of these conceptual parts contains 3 to 10 chapters. The structure of the chapters in each volume is, of course, uniform. It is divided into subchapters, alphabetically numbered, and these are divided into sections, numbered in Roman numerals. Typically, this is the final subdivision within the subchapters, but sometimes they are further divided into titles, which use Arabic numbering.[10]

The workmanship is the usual great quality of German manuals: on Bible paper, in relatively small type and densely spaced, but legible and not only with marginal numbers but also marginal headings for each paragraph. Following the table of contents, there is first a list of abbreviations, then a bibliographical summary of the books, which are cited in abbreviated form in all 12 volumes. This list, 25 pages long and divided into six chapters, lists the most important literature on German administrative law: in Chapter I those textbooks, manuals and monographs in German in the field of European and international law as well as comparative law, which are regularly cited in the volumes appear, and then such commentaries. Chapter II lists the textbooks, manuals and monographs in the field of constitutional law (in Germany rather called *Staatsrecht*), subdivided into subchapters, followed by the commentaries. Chapter III of the bibliography first lists the textbooks, manuals and monographs in the fields of general administrative law, public administration doctrine and administrative liability law. This fills just over 3 pages, followed by one page of commentaries. Subchapter 2 of this chapter brings together the textbooks, manuals and monographs in the field of administrative procedural law, followed by commentaries totalling 2 pages. Chapter IV then takes the reader through the literature in the field of special administrative law: first come the comprehensive volumes, followed by the most important sectoral reference works in the fields of construction law, data protection law, finance and tax law, municipal law, public service law, public economic law and regulatory law, police and law enforcement law, social law and finally environmental law. Chapter V briefly summarises similar works on the history of public administration, administrative law and constitutional law, while Chapter VI contains, among other things, governance theories, legal methodology and theory, and a commentary on the German Civil Code. The list of abbreviations contains 38 pages of international, EU and German legal sources, organisations, journal titles and, of course, the established abbreviations mainly used in footnotes.

[8] Volume V is, at the time of the writing this review, already in press and the authors and editors are currently working on Volume VI.

[9] The fourth volume has only 3 parts, but there are 5 chapters each, so it is the same size as the other volumes.

[10] Of course, there are some sections where the structure is even more differentiated, in which case there are also small Latin subtitles, double lowercase bullet points and, where appropriate (in Arabic numerals), subheadings.

III. The concept of the content of the publication and its integration into the developmental arc of German administrative law

The editors have carefully planned the contents of all 12 volumes whose titles are already indicated. The first two volumes are in fact, as their titles suggest, summary volumes containing the basic principles, with 7 and 3 in detail volumes respectively. Thus, to the first summary volume (I, Basic Structures of German Administrative Law) can be linked the volumes Public Administration and Constitutional Law, Status of the Individual and Procedures, Scales and Forms of Activity, Administrative Law and Private Law, Tasks, Organisation and Public Service, Control and Enforcement, and State Liability. The second summary volume (II) is entitled Basic Structures of European and international administrative law, the doctrines of which are set out in detail in three volumes, grouped into the topics of European "Administrative Union" Law, Administrative Law of the EU and International Administrative Law.

The editors – and with them the authors – want to convey a particular vision, one that sees administrative law as an organic whole, but also as a whole with its interdependencies and interactions. In other words, it does not (only) present administrative law in its static state, but wishes to give an idea of the incredible dynamics that characterises this field. Administrative law does not exist in itself. On the one hand, it is closely linked to international and EU administrative law: a considerable part of national administrative law is determined by these, not only through binding EU legal sources and international treaties. This is particularly true of sectoral administrative law, where public international economic law as well as the policies and public law of the European Union sometimes fully determine national law. Sectoral administrative law inevitably feeds back into general administrative law, but obviously there are mechanisms in the other direction too, just think of the flow of information or procedural law. These interdependencies and interactions are analysed in great detail by the authors of the 122 chapters in the 4 volumes published until the end of 2022. In the same way, the interdependencies between procedural law and substantive law are not overlooked, nor is the interdisciplinarity of the methodology.

This publication is an integral part of the development of German administrative law. It is worth recalling this journey over the last two centuries, with reference to the chapters discussed. The opus itself – maybe surprisingly? – does not begin with an introduction to administrative law, but to its subject, public administration; in the first part entitled "Historie", in six chapters, which cover the "long 19th century", the Weimar Republic and the National Socialist period, from the early modern "Policey" to the after-war occupation and the reunification of Germany. Of course, there is also a great deal of discussion of administrative law in these chapters, with important features of each era being covered in detail – and also discussed from the perspective of our

current concepts. These historical chapters nicely illustrate how closely organisation, staff, tasks and (legal) instruments of public administration are interrelated, and how difficult it is to decide, for example, in which order a textbook should present these inseparable elements. In these chapters, too, a picture of contemporary administrative law is drawn alternately from the point of view of the constitutional system, the administrative organisation, the tasks it performs and the civil servants. Administrative law itself is of course also discussed, although, since it is the subject of all the chapters in the 12 volumes in one sense or another, these historical chapters rightly concentrate on the administration itself.[11] Thus, what has been said about "Policey-law" makes it even clearer why the translation of Policey as "policing" is much more appropriate than "police", and why we cannot speak at that moment of administrative law in the modern sense. Indeed, at that time, police law was essentially only a set of rules aimed at influencing the behaviour of the addressees *(Steuerungsnormen),* the addressees at that time being subjects who were either obliged to behave in a certain way or to refrain from doing so.[12] The addressees are not yet citizens, but subordinated subjects, who have no rights. Although at times they may appear to have rights by reflex, not in a legal relationship with the organs of the state, as those do not yet have obligations towards them. It is very interesting to read how this "law of order" has developed within private law, mainly out of a need for a systematic presentation of the rules of private law, which were essential for the study of "Kameralistik" and "Policeywissenschaft".[13] This is partly clarified by citing the works of Otto Mayer and Lorenz von Stein, which are already associated with the next period.[14] The authors present the administration of the next two periods, the long 19th century and the Weimar Republic, rather through the prism of important stages in German history, primarily through the gradual differentiation of the administrative organisation, which resulted partly from the development of the state organisation and partly from the proliferation of state tasks. In these periods, starting primarily in the second half of the 19th century, and then summarised in a dazzling system by Otto Mayer,[15] the methodology that still prevails has been fundamentally developed, and is the subject of a separate chapter.[16] After the dark age of National Socialism, Ulrich Stelkens summarises the milestones of German public administration that still determine German public administration today in two historical chapters, from the post-World War II period to the recent past, with the reunification as the caesura between the two. The first of them – and still the most

[11] The relationship between the concepts of public administration and administrative law will be discussed in § 11.
[12] Simon, § 1: Administration in the early modern polity, 3–39. [58].
[13] Simon, § 1: Administration in the early modern polity, [55].
[14] Simon, § 1: Administration in the early modern polity, [58].
[15] Most eminently O. Mayer, *Deutsches Verwaltungsrecht,* (München, 1924[3]).
[16] So on the legal method, see Kaiser, § 24 Juristische Methode, Dogmatik und System, 941–977.

important – is the process of constitutionalisation that followed the adoption of the Basic Law.[17] The *Grundgesetz* of course built on administrative law, but the Basic Law completely reshaped the whole of it, partly due to the effective involvement of the Federal Constitutional Court. From this moment on, the basic principle certainly applies: *Verwaltungsrecht ist konkretisiertes Verfassungsrecht*.[18] The chapter outlines the various directions of the implications of the requirement of (effective) legal protection against the administration in the German Basic Law, *Grundgesetz* 19(4), and then highlights the unifying work of the five federal courts and the significance of access to court that has developed into a five-tier system. It also analyses the three most important further influences on administrative law before reunification, namely the codification and consolidation of general administrative law, the development of environmental law, and the rise of proceedings relating to conscientious objection and to immigration. The final historical chapter, which leads from reunification to the present, continues the macro-perspective of the arc that the chapters of the four volumes analysed here – and of each subsequent volume – will (then) examine in detail, broken down by notions and by legal institutions.[19] Of course, these aspects of the development of administrative law can be observed throughout Europe, with the exception, however, of the part dealing with the technical aspects of reunification, in other words the extension of the scope of the West German legal system to the former East German territories and the phasing out of the East German legal system.[20]

The "product" of this period, the very important reform process that began in the first half of the 1990s and has since become dominant under the name *Neue Verwaltungsrechtswissenschaft,*[21] which seeks to go beyond the Otto Mayer concept in its concept and methods, is presented in a separate methodological chapter.[22] This reform process has drawn on a number of sources, and we must mention on the one hand the series "Schriften zur Reform des Verwaltungsrechts", started by Wolfgang

[17] Here the interactions are presented. The elements of the Basic Law that determine administrative law, and the details of the implications, are most concentrated in Volume III, entitled "Verfassung und Verwaltungsrecht", see below.

[18] "Administrative law is constitutional law substantiated in concrete terms."

[19] Stelkens, § 5 Verwaltung von der Besatzungszeit bis zur Wiedervereinigung, 155–193. Actually, three volumes deal with this, and chapters in further volumes will deal specifically with what appears here in a nutshell, i.e. how European integration has had a significant impact on public administration and administrative law. To quote the very apt subtitle, administrative law is affected by *Ungleichzeitige und gegenläufige Entwicklungen* (conflicting processes in a time-shift), the main buzzwords being accelerating procedures, cutting red tape, privatisation, PPPs, public procurement, digitalisation, "information governance", New Public Management and multitasking.

[20] Stelkens, § 6 Administration in a reunified Germany, [6]–[12].

[21] More on this trend: A. Voßkuhle, 1 § Neue Verwaltungsrechtswissenschaft, in A. Voßkuhle, M. Eifert and C. Möllers (eds), *Grundlagen des Verwaltungsrechts,* (3rd ed., vol. 1, 2 vols, C. H. Beck, München, 2022), 3–70, and in the handbook discussed here, Kersten, § 25 Konzeption und Methoden der „Neuen Verwaltungsrechtswissenschaft", [13].

[22] Kersten, § 25 Konzeption und Methoden der „Neuen Verwaltungsrechtswissenschaft", 979–1022.

Hoffman-Riem,[23] and on the other hand two very important works by Eberhardt Schmidt-Aßmann[24] and Gunnar Folke Schuppert[25] respectively. In fact, the conceptual approach to administrative law of these works has been synthesised and taken forward in the three-volume publication "Grundlagen des Verwaltungsrechts",[26] which is probably well known to many and is also referred to by many as the "bible of administrative law". It was edited in the 1st and 2nd editions by Professors Eberhardt Schmidt-Aßmann from Heidelberg, Wolfgang Hoffmann-Riem from Hamburg, who were joined by Professor Andreas Voßkuhle from Freiburg, by then the ever-youngest president of the German Federal Constitutional Court – all of them congenial legal scholars. The third edition of this three-volume handbook, which is a huge work of reference having laid the foundations for this genre, was published in 2022 in 2 volumes, and edited in addition to Andreas Voßkuhle by Professors Christoph Möllers and Martin Eifert from Berlin, who replaced the other founding editors. The handbook discussed follows a somewhat different logic, explicitly emphasising that it does not seek to represent a particular paradigmatic trend, but to present German administrative law and jurisprudence in all its diversity. At the same time, it is clearly linked to the *Grundlagen,* but this is inevitable, since the subject of this work is the same: administrative law. The 12 volumes are in fact a more detailed, more diversified treatment of the same subjects, with the first two volumes, like the Grundlagen, covering the basic principles and the ten volumes that follow them covering aspects of administrative law in greater detail. Of course, the more detailed presentation and the even greater importance of inter- and intradisciplinarity and the deeper embeddedness into the international and European legal system also require a different arrangement.

[23] 10 edited volumes have been published in this series over ten years, starting with W. Hoffmann-Riem (ed.), *Reform Des Allgemeinen Verwaltungsrechts. Grundfragen,* (Nomos, 1993) from the third volume onwards with Eberhard Schmidt-Aßman as co-editor, tackling the most important aspects of reforms.

[24] Schmidt-Aßmann, *Das allgemeine Verwaltungsrecht als Ordnungsidee*.

[25] G. Folke Schuppert, *Verwaltungswissenschaft. Verwaltung, Verwaltungsrecht, Verwaltungslehre,* (Nomos, Baden-Baden, 2000). This is a very interesting, mosaic-structured publication (i.e. quoting long passages from the works of other authors) of more than a thousand pages, described in its subtitle as a textbook, which provides a nice cross-section of the achievements of German public administration research up to the early 2000s through the prism of governance theory.

[26] E. Schmidt-Aßmann, W. Hoffmann-Riem and A. Voßkuhle (eds), *Grundlagen des Verwaltungsrechts,* (vol. II, C. H. Beck, München, 2012).

IV. Some insights to the first four volumes

1. Volume 1: Basic structures of administrative law

The historical chapters are followed in the second part by the legal system as another essential coordinate system for defining the place of administrative law, namely what are the layers and sources of law, all of which have an impact on public administration. In the chapter on the sources of administrative law, we will, of course, not only find that the formal sources of administrative law are depicted, but also, before that, the basic legal theory and concepts, the functions and principles of sources of law, and the trends in legislative development, including the declining role of parliaments in lawmaking, the role of judge-made law and the increasing prevalence of norm-collision. Unwritten legal rules and "non-legislation" (technical rules and other rules created by non-state actors) are also discussed. The concept of the multilayered legal system is treated in chapters on the Europeanisation and the internationalisation of administrative law as well as the interaction between constitutional and administrative law.

Having thus presented the external determinants of administrative law, it is possible to move on to administrative law itself. The first part on this topic, "Concepts and References",[27] seeks to define administrative law through chapters presenting several dialectical conceptual pairs. First, the duo of public administration and administrative law is examined in more detail, containing some interesting reflections on the conceptual problems of public administration, as well as of administrative law, and on the reasons for the separation of the two concepts from each other, as well as on approaches that have tried to treat the two concepts as a unit (illustrated with another historical overview of the different trends from police science to *Neue Verwaltungsrechtwissenschaft*).[28] This is followed by the pair of general and special administrative law, and then, with a focus on intradisciplinarity, the specific relationship between administrative law and administrative science, which relationship has been constantly changing over time, mainly being concerned with questions of demarcation. The next pair of terms is perhaps somewhat surprising, since they are related in a different way from the usual pairs that will follow it: private law-administrative law and then criminal law-administrative law. It is no coincidence that Jan Ziekow immediately expands the pair of administrative law and administrative court procedural law[29] into a trio, wedging administrative procedural law in between, in order to focus attention on the procedural aspects of administration (and administrative

[27] Begriffe und Bezüge.
[28] Waldhoff, § 11 Verwaltung und Verwaltungsrecht.
[29] Ziekow, § 14 Verwaltungsrecht und Verwaltungsprozessrecht.

law) and then to analyse the relationship between public administration and administrative justice and the laws that govern them.[30]

Of particular interest to foreign readers may be the concluding chapter of this section, which compares German administrative law with foreign administrative laws in a summary.[31] This is in fact a comparative chapter on administrative law, since it first presents the methodological foundations and challenges of comparison in administrative law, which all flow from the different national characters of the subject matter, being administrative law – which is of course sometimes the case in other fields of law as well. It then presents, on the one hand, the common lines of development in administrative law and, on the other, the distinctive differences and national characteristics of the German-French-English triad traditionally researched in Germany. Gernot Sydow then compares the main characteristics of the structure of administrative law systems from the perspective of governance- and systems theory, which is a very interesting aspect. These characteristics are the place of administrative activity in the system of checks and balances, the way in which administrative law is systematised and in which the impulses of Europeanisation are handled, the foundations of organisational law as well as the system of judicial protection and the other control mechanisms over public administration. All of this leads to a number of conclusions on the functional interdependence of systemic decisions on the one hand, and the convergent nature of decisions about administrative law in a democratic administrative state under the rule of law on the other.

The next, fourth major part is dedicated to the *Handlungsformen,* the core of all textbooks, a genuinely German systematisation.[32] Its chapters describe the typical forms of action in public administration, which are defined in terms of the functions and tasks of public administration. The first is interventionist public administration *(Eingriffsverwaltung),* followed by public service administration, which is now much more and, as a result of constitutionalisation, very different from Forsthoff's concept of *Daseinsvorsorge,* as it is also known in many other countries.[33] Then there are planning administration, infrastructure administration, guarantory and regulatory administration, and finally information administration. Hungarian professionals will also find these chapters of great benefit, especially if they wish to convey a systematised administrative law and not only teach a snippet of it. The chapters on the forms of activities present, in a most systematic way, the range of instruments with which public administrations attempt to deal with their various tasks.

[30] More on this infra in the discussion of the fourth volume.
[31] Sydow, § 17 Deutsches Verwaltungsrecht und ausländisches Verwaltungsrecht.
[32] Unfortunately, there is still no adequate term for this in the Hungarian literature...
[33] See Nagy M., A közszolgáltatás-szervezés intézmény- és elmélettörténete, in Fazekas M. (ed.), *Közigazgatási jog. Általános rész II.: A közszolgáltatások szervezése,* (ELTE Eötvös Kiadó, Budapest, 2017) 39–53.

2. Volume 2: The basic structures of European and international administrative law

Volume II may come as a surprise to some foreign readers but, as it has already been pointed out, in Germany the organic unity of public law is not artificially separated. At the same time, it is even a great step for German literature that not only EU law is dealt with here, but that the pan-European and even global level is treated in the other basic volume.[34] There are chapters that go far beyond this, such as those on European administrative judicial cooperation or the one on the European administrative area. The question of national identity is also raised here and is not left to the detailed volumes.

The logical structure of the second volume is similar to the first volume, as far as possible given the differences in its substance. The historical section starts immediately with the Europeanisation of German public administration, followed by a historical review, the separation division of powers and the exercise of powers. The conceptual pair here is EU administrative law and the Union's own administrative law on the one hand, and German administrative law and EU administrative law on the other, complemented by chapters on European administrative judicial cooperation and the European Administrative Union. The sources and layers of law are then analysed in this volume, followed by the principles and methods of European and international administrative law. The latter can also be of great benefit to those who are not dealing with EU administrative law.

Karl-Peter Sommermann's chapter on the importance of legal comparison as a method[35] deserves special mention. This chapter analyses the historical development of comparison in the field of administrative law and shows how important it has been since the birth of administrative law, although those who argued for the need for this method were often in the minority, since, unlike constitutional law, many considered administrative law to be the main area of the emergence of true national character. Even back then, many were inspired by the study of other nations' solutions and, of course, by the need to justify their reform efforts. This is also confirmed by Hungarian literature, which, for example, refers to the contemporary literature on the creation of administrative justice and the "transnational reception process" that took place at the level of various drafts,[36] which shows many similarities with the German, Italian and French processes described above.[37] The next part of the chapter deals with the role of comparative law in

[34] Given the different volumes of the body of law, EU law dominates of course.
[35] Sommermann, § 52 Bedeutung der Rechtsvergleichung im europäischen Verwaltungsrecht.
[36] I. Stipta, Die Geschichte der Verwaltungsgerichtsbarkeit in Ungarn und die internationalen Modelle, (2014) (5) *Journal on European History of Law,* 73–79.
[37] Stipta, Die Geschichte der Verwaltungsgerichtsbarkeit in Ungarn und die internationalen Modelle, 865–869.

European integration processes, followed by a separate section on the administrative law foundations of European convention law (transnational international law), in which the ECHR, the recommendations of the Committee of Ministers within the Council of Europe and other international treaties play a key role, creating a form of pan-European standards. The development of the science of international comparative administrative law, the development of which is linked to comparative law, and its main fora and impact on legal training are discussed. The second volume also concludes with an outlook on the challenges of supranational administrative action, in which, in addition to the general European and international outlook, a special chapter is devoted to the EU's (own) codification efforts in administrative law, as interpreted by a key German scholar of the ReNEUAL initiative, which has gained momentum in the last decade but has been somewhat sidelined since.[38]

3. Volume 3: Public administration and constitutional law

This volume also applies the already mentioned holistic perspective. First of all, the constitution as a framework for administrative action is presented, of course, starting from the point of view of the concept of multi-level constitutionalism. The concept and practical implementation of the "European Legal Community" is the subject of the chapter by the former President of the Constitutional Court, Andreas Voßkuhle, who is still devoted to constitutional dialogue.[39] The following two parts deal first with the organisational and then with the fundamental rights aspects. In the chapter on democratic legitimacy and self-government, the various aspects of organisational arrangements are discussed from a number of angles, ranging from independent agencies to the different public bodies. A very interesting concept is followed in the fourteenth part, entitled "Constitutional constraints, in particular fundamental rights". It discusses the role of the rule of law in European administrative law and then the extensive system of obligations stemming from fundamental rights: the definition of fundamental rights in EU and German public administration law, but also obligations that arise for public administrations when using private law instruments or in connection with digitalisation. Particularly fascinating is the chapter outlining the fundamental rights aspects of what used to be called *besonderes Gewaltverhältnis,* which in fact deals with the fundamental rights of natural persons in a supremative relationship based on (inner-)organisational power, a subject on which, in contemporary Hungarian literature, one can perhaps only read about in a subset of areas: it primarily comprises the relationships between persons holding public office and persons in a

[38] Schneider, § 56 Kodifikation des europäischen Verwaltungsrechts.
[39] Voßkuhle, § 59 Europäische Rechtsgemeinschaft – Konzept und praktische Umsetzung.

permanent legal relationship with a public institution (and in fact even users of prisons).[40]

In addition to the adhesion to fundamental rights, the most important related constitutional principles are also presented in the consecutive chapters, such as the primacy of law and the importance of statutory empowerment, equality, proportionality and, together with legal certainty, the protection of legitimate expectations, which is a quite neglected subject in Hungary.[41]

The issue of federalism, which affects German administrative law in a thousand ways, is the next constitutional determinant, which is discussed in a separate chapter, followed by the examination of the role of public administration in the state, primarily in terms of the various state objectives and the constitutional constraints that determine the functioning of the state.[42] Finally, the volume concludes with the challenges of civil service, which is itself a major challenge for both constitutional law and administrative law for the future as, unlike many European countries, in Germany it is anchored in the constitution.

4. Volume 4: The status of the individual and procedures

The fourth volume basically focuses on the individual (or more precisely, the external subject). A very specific German perspective prevails here, since what else could form the basis of this topic than the specific German conception of the subjective public law right. Several chapters of the first part deal with the development, evolution and types of this entitlement, the impact of EU law on the conception and its role in EU law in general, as well as a comparative legal analysis of this entitlement, so that the reader can understand the essence of this particular German approach and gain an idea of the processes for its rearrangement taking place, actually at European level. Of course, legitimate interests and conflict resolution methods are also discussed. A related but less prominent issue is that of the administrative legal relationship, which is analysed in three chapters, one on general issues, one on procedural rights and one on internal organisational relationships. The next part sets these concepts in motion and examines their enforceability through procedural law and judicial review. It starts with my personal favourite, the so called competitor's action.[43] This constellation is still

[40] Kielmansegg, § 70 Grundrechte im Eingliederungsverhältnis („Sonderstatusverhältnis").

[41] Of course this is not only a Hungarian reluctance. Cf. E. Chevalier, The Case of Legal Certainty, an Uncertain Transplant Process in France, (2021) 14 (1) *Review of European Administrative Law,* 95–119. DOI: https://doi.org/10.7590/187479821X16190058548745

[42] These are the "social state", the "environmental state", the economic and financial union, the "constitution of regulated industries", the "financial constitution" and the "constitution of public finances".

[43] Fehling, § 100 Konkurrentenklage, 331–377.

underdeveloped in Hungarian law, even though, in view of the EU harmonisation, economic administrative law in Hungary is familiar with a number of such situations, where competitors try to compete, or to oust or "regain" their position by various legal means. In addition to market entry, this is also the case with concessions, state aid, public procurement and other market regulation constellations, of which Michael Fehling from Hamburg gives a good overview. In addition to economic administration, this is also an issue in civil service and in higher education, something that is still completely lacking in Hungary. In view of this, a study of the basic doctrinal issues could be very important, especially for legal practitioners and researchers working in the field of litigation and dispute resolution, as well as for the synergies between civil procedural law and administrative court procedural law. It is also a good illustration of how the legal classification of a legal instrument has a significant impact on the depth to which such an area is examined in the scholarship. I am convinced that the difficulties of litigation relating to concession and subsidy contracts are mainly due to the classification of these contracts as civil law contracts, and this is currently one of the main obstacles to the proper development of this field in our country.[44] In the field of public space use, it is already visible that there are positive legal and scientific benefits to be gained from bringing a legal relationship into the public law domain.[45] Conversely, the under-representation of general competition law issues in German public law literature is due to the fact that, in Germany, competition law infringements are almost exclusively subject to civil litigation.

The other chapters in this section are not only of interest to German lawyers, since they deal with the enforcement of claims that are not based on subjective legal protection, primarily in the areas that are also pioneering in our country – due to the influence of EU and international law: in environmental protection on the one hand, in consumer protection and in social law on the other. The linking of the latter two areas is based in part on the very similar considerations: we can learn more about the privileged position of NGOs representing disabled people as plaintiffs. This chapter also illustrates the different developments which the transposition of EU directives can have as an effect. In Hungary, for example, unlike in Germany, instead of limiting the scope to social law, this collective redress is regulated in relation to violations of the

[44] See on the many problems of the lack of defining some contracts as administrative contracts Nagy M., Szerződés a közigazgatási jogban, (2022) (4) *Jogtudományi Közlöny,* 137–146.

[45] Horváth M. T., Áttetsző Viszonyok. Közszerződés és Magánjog, (2022) (2) *Közjogi Szemle,* (1–8) 6–8; or K. F. Rozsnyai, Challenges for Hungarian Local Self-Governments Connected to the Use of Public Space: To Be Governed by Public or by Private Law?, in *Urbanisation and Local Government(s),* (Lex-Localis Press, Maribor, 2021) 95–105. DOI: https://doi.org/10.4335/2021.7.8. The use of public space could also be one of the veterinary horses of the theme of the competition action, since some of the problems in this area are presented in a much simpler framework than in regulated markets.

requirement of equal treatment, which has led to a significant reduction in the scope: NGOs can only bring civil and labour law claims, but no administrative actions.[46]

Following these basic issues of enforcement, the previous two parts are placed in the coordinate system of general administrative law – sectoral or special administrative law, and the situation of the individual is presented in the most important "reference areas": construction law, economic administration, environmental protection, public service, social law and tax law. Then the "dice" are turned again, and the next part is a more detailed examination of the various types of procedure for the enforcement of the rights and interests of the subjects; as described above, divided into two sub-parts. The first sub-part puts the whole issue in context: inevitably, of course, this requires reflection on the functions of procedures. The eternal *topos,* the serving role of procedures and their *per se* value, serves as an opening of this sub-part, to be followed by the fundamental questions of participation in procedures. After the right to a reasoned decision, the specific administrative issues of major investments (like power plants and highways, etc.) follow, to arrive then to the main challenges of the moment. Digitalisation, timeliness and the impact of EU law are discussed in the following chapters. After setting the context, the second sub-part takes an in-depth look at each type of procedure. Informal and formal procedures are first contrasted in chapters 117 and 118. This distinction may seem alien to the Hungarian reader and is also linked to the fact that, in Germany, procedural law in general was regulated much later and in a different way than in Hungary. The essence of the difference can perhaps be summarised in the fact that both procedures are based on the principle of formality, but the formal procedure in Hungary is more formal: the procedure, the content of the decision and the legal effects are regulated in greater detail, so it is closer to the court procedure in its regulation. This was Imre Valló's objective as early as the 1930s, and this is why the procedure was designed in this way in Hungary from the outset. Nevertheless, at the same time, informality is also an important principle in our country, and the way in which the procedure is conducted is essentially at the procedural discretion of the administrative body through the principle of free evidence. This is, of course, being interpreted increasingly narrowly, both in Germany and here, in the wake of the "constitutionalisation" described in Volumes 1 and 3.

The following chapter looks at the one-stop shop procedure, which has appeared in member states' administrative law as a result of the impact of EU law, to then focus on planning and plan approval procedures. A similarly pioneer topic form allocation procedures, which would also be very much needed in Hungarian legislature and scholarly literature, as there are many cases where rights over finite assets or a finite

[46] See § 20 of Act CXXV of 2003 on Equal Treatment and the Promotion of Equal Opportunities (Act on Equal Treatmentand the Promotion of Equal Opportunities). On some further consequences cf. B. Dombrovszky and I. Hoffman, When Social Policy Walks into the Justice System..., (2023) *Central European Journal of Public Policy,* DOI: https://doi.org/doi:10.2478/cejpp-2023-0013

number of entitlements are allocated. Instead of a detailed description of the individual areas, this section focuses on the general features: the object of the allocation itself (which is an entitlement) and the decision leading to finality, as well as the allocation decision itself and its implementation, which is not a procedural stage merged with the allocation decision resulting in a two-stage procedure.

As usual, this volume also concludes with the challenges; this time in a single chapter and not in a separate part: the challenges of authorisation procedures, an evergreen subject of administrative procedural law. Ivo Appel paints a huge tableau of problem areas and the need for renewal. At a very high level of abstraction, this chapter actually presents the challenges related to the topics discussed in this volume (and in the previous volumes), such as expertise, primarily in terms of the need for external experts, as well as the relationship between formal and substantive law. Standardisation, the depth of judicial control and Europeanisation are presented as factors that would require reforms. Then, in a more positive tone, the development potentials of the current situation are discussed, always with reference to their limits, such as the broadening and improvement of the possibilities of participation, deregulation, procedural privatisation, digitalisation and artificial intelligence, the increasing role of procedures and the associated rules of preclusion. The call for sustainability is not missing, nor is the issue of stabilising decisions.

V. Perspectives

I hope that this presentation, which can only move on the surface, given the limitations of space, encourages many readers to study this work. Even this brief introduction is already full of suggestions for future doctoral theses and habilitation papers. The opus may also provide impulses for the further development of national administrative law itself and the way it is taught. It demonstrates far too well the many positive outcomes of a multi-authored scientific thinking that wishes to encompass the entire public administration science of a country,[47] and can give good guidance to designing conference series providing a great organisational framework for the administrative law scholarly community to think together.

Last but not least, I cannot refrain from reiterating the importance of the German language for public lawyers outside of Germany: this book review also provided evidence that it is a legitimate expectation that my doctoral students should

[47] Slowly, this has also taken root in Hungary with its first fruit, the publication of the handbook prepared in cooperation with all administrative law departments of the country now in the second edition including the most important sectoral fields of Hungarian administrative law in one volume: Lapsánszky A. (ed.), *Közigazgatási jog: Szakigazgatásaink elmélete és működése 2.,* (Wolters Kluwer, Budapest, 2020).

know German, since only those who can read in this language can truly see the wonders of administrative law. Perhaps I can console the readers not understanding German by saying that, fortunately, German public law scholars have in recent years increasingly recognised the need to participate in English professional discourse, so that more and more of the topics covered in the volumes are available in English, which does not, of course, alter the fact that it is worth learning German and suggesting that the libraries acquire the opus presented.