

European Administrative Law Dialogues

Our Parochial Administrative Law: the value of comparative law
for the development of U.S. administrative law.

Date: 27 November 2023

Time: 15.00-16.30 (Brussels time)

Location: Online



Join us for a discussion with [Oren Tamir](#) on his upcoming publication “Our Parochial Administrative Law”. This online event will zoom in on U.S. administrative law and the value of meaningful and productive comparative research.

*Going back to the birth of modern administrative law in America reveals something striking. The “pioneers” of the field and many who followed in their footsteps weren’t trying to fashion a body of law for a rapidly expanding administrative state by being exclusively self-referential—that is, focusing only on our own idiosyncratic experiences and needs. Rather, they were consistently looking at what the U.S. might learn from other jurisdictions as well. In short, modern administrative law began in our system very much as an exercise in comparative law. Fast forward to today, and this intense comparative engagement has almost vanished from the administrative law scene. It lives only on the margins of the scholarly debate without any real purchase or impact. But even when administrative comparison does rarely appear in prominent places, its employment seems highly problematic, giving the entire enterprise a bad rap. For instance, in his dissent from a denial of cert in *Buffington v. McDonough* from this past term Justice Gorsuch chastised his colleagues for refusing to reevaluate *Chevron* deference among other things by noting that other countries “declined to adopt” something similar. To be sure, Justice Gorsuch’s statement is superficially true. But it suffers from many of the familiar failures of irresponsible comparison—including by being shallow, acontextual, and selective. In fact, Justice Gorsuch’s comparativism in *Buffington* may not only be flawed but also what comparativists might call “abusive”—i.e., done in the service of undermining what our constitutionally legitimate administrative state presently seems to require.*

Dr Oren Tamir is a post-doctoral fellow at Harvard Law School and Adjunct Professor of Law and NYU School of law. His research focuses on U.S. and comparative public law.

Professor [Liz Fisher](#), University of Oxford, and Professor [Mariolina Eliantonio](#), Maastricht University, will accompany Dr Oren Tamir in a dialogue on the value of comparative legal research, the development of U.S. administrative law, and on the exchange of lessons between European and U.S. administrative law.