

Standards of good administration in administrative law

Summary

Finding and recognising patterns for administration is a fundamental task for administrators. Researchers have long debated how to administer wisely and effectively, and on which solutions law should be based or how to shape properly institutions required for the state to function. The issue of good administration is of crucial importance for the relationship between the administration and individuals.

The main objective of this book is to answer the question whether the provisions of administrative law, in particular substantive administrative law, correspond to the basic standards of good administration. At the turn of the 20th and 21st centuries, the discussion on good administration coincided with the proclamation of the Charter of Fundamental Rights of the European Union and the European Code of Good Administration Behavior. According to art. 41 of the Charter of Fundamental Rights, every person has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions and bodies of the European Union. Furthermore, under the Charter, every person has the right to have the Community make good any damage caused by its institutions or by its servants in the performance of their duties, in accordance with the general principles common to the laws of the Member States. It must also be mentioned that the notion of standards of good administration is wider in scope than that set out in the Charter of Fundamental Rights.

The book includes considerations related to the history and theory of administrative law. In addition, three chapters of the work are dedicated to an analysis of the provisions of administrative law, mainly substantive administrative law, in the context of implementing the standards of good administration.

The dissertation attempts to verify the following research hypotheses. The first thesis is that it is possible to distinguish the core standards of good administration, which set out the framework for current administration. These standards are based on evolutionary changes that must be seen in their historical context. The

origins of these standards should be sought in factors such as legislation activity (also within the framework of soft law), doctrine, judgments and sometimes established practice. European standards of good administration are the result of globalization, Europeanization and westernization.

The second thesis is that the standards of good administration are reflected in Polish law. The standards of good administration identified within European administrative law are not only manifested in the legislation defining the administrative procedure (Administrative Procedure Code), but also throughout administrative law.

The third research thesis is that the Polish legal solutions of substantive administrative law generally meet the basic requirements of the standards of good administration.

The fourth thesis is that the right to good administration grew out of the loosely formulated standards of good administration, regarded as a fundamental right.

Finally, there is evidence that nowadays the new fundamental principle of law and administrative law is in the process of constitution – the principle of good administration. This principle has its roots in art. 41 of the Charter of Fundamental Rights, which also acts in conjunction with art. 6 of the Treaty on European Union. In the domestic law, the principle of good administration can be recognized as a principle within the rule of law and democracy; and in correspondence with other constitutional norms.

The main conclusion of this research is that Polish administrative law is in line with the European standards of good administration and defined standards are included in its provisions. However, the findings allowed areas requiring legislative changes to be identified. In this regard, it is highly recommended to adapt the legal regulations in order to comply even better to good administration solutions. In the author's opinion, the best way to arrange the system of administrative law would be to adopt the general principles of administrative law in a separate legal act.