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SUMMARY

THE MODEL OF GENERAL ADMINISTRATIVE PROCEEDINGS IN THE LIGHT OF THEIR GENERAL PRINCIPLES

The doctoral dissertation attempts to present comprehensively the issues connected the development of jurisdictional model of administrative proceedings by the general principles of the Code of Administrative Procedure. The reason why I decided to analyse this topic is the importance, nature and specificity of the issue. General principles of the Code of Administrative Procedure constitute what is the most important in the trial, the basic, major and fundamental assumptions of the procedure. Thus these principles reflect jurisdictional model of administrative proceedings and constitute its foundation. It is to be noted that in spite of its importance the issue of jurisdictional model of administrative proceedings in the light of their general principles has not been studies and described satisfactorily in the available literature and in terms of the solutions adopted in civil and criminal procedure, it constitutes a model that is separate and contradictory to these procedures.

The main thesis of the doctoral dissertation is: None of the determinants of the model of proceedings regulated by provisions of law does not occur in the general jurisdictional administrative proceedings in its pure form; in spite of that, the so-called managerial model of application of law is preserved.

The structure of the dissertation has been adjusted to its purpose and research intentions. The dissertation consists of six substantive chapters, introduction and conclusion.

The first chapter is devoted to the notion of the model in legal sciences. It focuses on the contexts of using the term "model", ways it is understood in law and the typologies of models of proceedings in law. A description of main the determinants of the model of proceedings regulated by provisions of law, such as initiative in proceedings (formality – availability), model of evidentiary proceedings (inquisition – contradiction), burden of proof (in material, formal as well material and formal terms), factual merit of pronouncement (formal truth – material truth), evaluation of evidence (discretionary evaluation of evidence – legal evaluation of evidence), mode of proceedings (written – oral), model of appeal proceedings (cassation – revision – appeal) constitutes the main part of the chapter. Discussion of the issues referred to above provides a possibility of noticing the structural differences between administrative and court proceedings.

The second chapter of the dissertation concerns the notion of general jurisdictional administrative proceedings. Is chapter includes a discussion of the concept of jurisdictional proceedings as administrative proceedings, whose aim is to determine the consequences of norms of substantive administrative law in relation to an addressee identified by name and in a case identified by number by a public administration body in the form of a decision. Moreover, general administrative proceedings as a kind of jurisdictional administrative proceedings are also discussed.

The third chapter, entitled *The notion of general principles in legal sciences*, includes a presentation of a notion of general principles in the light of general theory of law and specific legal doctrines including civil law, criminal law and administrative law. In the theory of law, just like in the doctrines of the main branches of law, diverse concepts of general principles are presented. The ambiguity of the notion "principles of law" is caused by the fact that in the theory of law and specific branches of law the concepts of defining this notion always result from some adopted convention. A careful analysis of different concepts of principles of law provides a possibility of noticing numerous similarities and differences in defining this notion.

The fourth chapter deals with the topic of development of the principles of administrative proceedings in Poland, i.e. with evolution of this model. The chapter includes a discussion of the bases of distinguishing the principles and a catalogue of distinguished principles before 1928, between 1928 and 1939, between 1945 and 1960, between 1961 and 1980 and after 1980. Undoubtedly, representatives of legal sciences and those of administrative proceedings, who formulated their own catalogues of general principles played a very important part in the development of general principles. The doctrine of administrative proceeding includes a presentation of diverse categories, divisions and names of general principles. Discussion of the development of the principles of administrative proceedings in the time frames presented above provides a possibility of showing the changes which have taken place in the attitude to these issues.

In the fifth chapter entitled *Legal character, range of applicability and functions of the general principles of administrative proceedings, i.e. the effect of the model* there is a presentation of the legal character of the general principles of administrative proceedings, validity of general principles in jurisdictional proceedings and in other normalized proceedings in the Code of Administrative Procedure as well as in the proceedings normalized outside the Code of Administrative Procedure. Functions of the general principles of

administrative proceedings, manifested in four areas, i.e. creation of law, interpretation of law, application of law and a guarantee of parties' rights are also presented in this chapter.

The sixth chapter includes an analysis of the general principles of administrative proceedings which shape their model. The following principles are discussed: the principle of taking into account, ex officio, social interest and the legitimate interest of citizens, the principle of objective truth, the principle of informing the participants in the proceedings, the principle of active participation of active participation of a party in the proceedings, the principle of urging the parties to reach an agreement, the principle of written form and the principle of two instances. Moreover, manifestations of the principles referred to above at the stage of initiating the proceedings, in the course of the proceedings and at the stage of making a decision as well as exceptions from the principles are also described.

All discussions are summed up in the conclusion of the dissertation; it also includes an evaluation of the existing legal solutions and final conclusions.

In order to present the topic of the doctoral dissertation the following models and research techniques have been used: the legal and dogmatic method understood as an activity aiming to determine the content of legal norms and examine their relations, the legal and comparative method, manifesting itself with respect to the solutions adopted in other branches of law and in other legal systems, an analysis of available literature devoted to the topic – in order to present the most representative views of the doctrine and indicating the areas of controversy, an analysis of judicial decisions made by Polish judiciary (in particular those made by the Supreme Court, the Constitutional Tribunal, the Supreme Administrative Court, and province administrative courts) and an empirical analysis of provisions of Polish legal system – in order to examine the manner of their application in practice and the effects of the regulations in question in social life.

Using the indicated methods and research techniques provides a possibility of formulating conclusions, which are presented in the particular chapters and in the last part of the dissertation containing a summary and final conclusions.