

CHALLENGES FOR ADMINISTRATIVE JUDGES: BEYOND THIS LAW? THE STANCE OF ADMINISTRATIVE JUDGES IN POLAND

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Abstract

Developments in administrative jurisdiction are generally seen as changes induced by law. Hence, the concept of adjusting administrative actions to contemporary challenges also includes envisaged transformations in administrative jurisdiction, viewing law as a tool for regulating social relations. Administrative law, employed in the oversight of administration by administrative courts, forms the foundation of all administration – management, direction, co-governance, steering of social life, or governance. This makes administrative law uniquely connected to other fields of knowledge related to administration. The thesis I put forward argues for the usefulness of drawing also from this unseen, yet natural backdrop by those applying administrative law or managing courts. It is commonly accepted that concepts of administration pertain to the administration itself. This is not entirely true. If we assume, as I do in this work, that courts are public organizations, then all concepts of public administration, including management and governance, can be successfully applied to all public institutions. The process of applying the law operates under its own legal rules, which does not mean, however, that all aspects of judicial activity are determined solely by law.

Judges and courts do not operate in a vacuum but within a real society with which they must engage in authentic dialogue. In a democratic state, no public institution can be exempt from assessment, including critical evaluation, of its activities. Social needs, expectations, and value interpretations cannot be overlooked, dismissed, or depreciated in favor of infallible judicial authority.

The challenges for administrative judges in Poland, in my opinion, lie mainly outside the law itself. Responses to these challenges may be found in elements of modern governance and public management concepts that emphasize the significance of the individual and appreciate the value of social communication, openness, empathy, maturity, etc. These concepts, cultivated and accepted by judges and court managers through education, professional development, or self-learning, can aid in meeting these challenges, thereby modernizing administrative courts to meet the demands of the contemporary world. These extralegal factors also influence administrative decision-making; they would not unless the decision-making was performed by an automaton disconnected from the external world. However, changes, especially in attitudes, require time.

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