

# **Jogelméleti Szemle 2020/1. szám**

## **TARTALOM**

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**Integrity of Administrative Law: Polish Perspective (ed. by Jan Zimmermann)**

Knowing and understanding a foreign State's legal system, especially a core domestic branch like public administrative law, is always a challenge. Meanwhile, contemporary research methods and academic analyses of legal problems often require comparisons of different jurisdictions and State practice. The unique volume edited by *Jan Zimmermann* now gives a helping hand by offering an insight into the role and place of Polish administrative law in their legal system.

The collective work of academics has been published by Wolters Kluwer in 2019 to open new perspectives of administrative law dialogue. The Department of Administrative Law of the Jagellonian University in Krakow, Poland has undertaken the role of a guide for academics and practitioners to understand the place of administrative law in the Polish legal system. The following noted authors made their contribution joined by the editorial work of Zimmermann: *Przemysław Wszolek* and *Mariusz Kotulski* on the issue of integrity and borderland of administrative law; *Wojciech Jakimowicz*, *Iwona Niżnik -Dobosz*, *Aleksandra Puczko* and *Joanna Lemańska* on the internal integrity and *Mariusz Oleś*, *Joanna Czułkowska*, *Ewa Skorczyńska*, *Dorota Dąbek*, *Piotr Dobosz*, *Marta Kisielowski* and *Mariusz Krawczyk* on different aspects of the external integrity of administrative law.

Referring to the words of the editor, an inescapable borderland can be observed in each branch of law and the volume made a brave attempt to analyse this marginal area and how it overlaps administrative law. Yet Zimmermann acknowledges the impossibility to strive for the whole, the book is an impressive collection of articles confirming its status in legal literature as the official guidebook to the *integrity of Polish administrative law*.

The word 'integrity' is often associated with administration and administrative law related subjects in the sense of certain *principled behaviour*.<sup>2</sup> The Book rather relies on its interpretation as a dichotomy of *unity and wholeness* and *being an integral part of something* when connects it to the public administrative law system.

Placing the Polish legal system of administrative law in the middle of the axis formed by the French and British concepts, the volume identifies it as an 'integral system', i.e.

*"a distinctive system of norms constituting a whole, a single entity, based on common principles, standards and values, theoretically (from jurisprudential perspective) independent and essentially self-contained, although not 'autonomous', not contrasting the remaining branches of law and not separate from them, but interrelated via co-occurring interactions; however, not 'repealing' norms of private law, but emphasizing a close and inseparable connection between that system and the entire applicable state legal order."*<sup>3</sup>

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<sup>2</sup> See for example, L. W. J. C. Huberts: Integrity: What it is and Why it is Important, *Public Integrity*, 20 (1) 2018. S18-S32.; Matthew T. Witt, Jack W. Meek & Suzanne Beaumaster: Integrity and Public Administration, *Public Integrity*, 14(3) 2012, pp. 225-227.; Conflict of Interest and Integrity in Public Administration in CEE Countries. Comparative Analysis. *Journal of Public Administration, Finance and Law*, 4(4) 2013 pp 55-67; Elisa D'Alterio Integrity of the public sector and controls: A new challenge for global administrative law? *International Journal of Constitutional Law*, 15(4) 2017, pp. 1013-1038.; Raymond W Cox: Ethics and Integrity in Public Administration: Concepts and Cases: Concepts and Cases. Routledge, New York, 2015.

<sup>3</sup> Wszolek, Przemysław: Substance and Types of the Integrity of Polish Administrative Law. In Jan Zimmermann (ed.): *Integrity of Administrative Law. Polish Perspective*. Wolters Kluwer, Warszawa, 2019. pp. 19-20.

This unity has two complementary, coexisting and interacting sides: internal and external integrity of administrative law.

While giving a theoretical explanation of the ratio behind choosing this typology, the borderland character of administrative law is explained (Part I). Mutual influences of administrative law and other areas of law are inevitable and often necessary; therefore, it is a normal phenomenon. Consequently, finding its boundaries (i.e. delimitation of internal integrity) does not and cannot require not separation (i.e. drawing the line of external integrity). It also highlights the fact that it is the legal practice, the practical application of the law that requires the settling of boundaries and the Book intends to offer a guide with its argumentations.

Every State has an own, unique system of law, so one may ask the relevance of such publication for the international audience. Indeed, at first glance to the table of contents suggest a basic study while the chapters include stand-alone but coherent studies. The scientific excellence and processing of each borderline area in a scholarly manner raise the Book to the level of high academic works. By giving the guidance with precise legal sources and deep theoretical analyses for each topic, the audience may identify and understand the edges of overlapping legal spheres to give proper background and basis for comparative studies and analogy.

Internal integrity of Polish administrative law is thoroughly and substantially analysed in a theoretical and positive law perspective; both from the view of the converging forces that support and of those which endanger and erode the unity. (Part II) Boundaries and borderlands with regards to constitutional law, civil law and criminal law is then detailed and a separate chapter is devoted to those field of law which are now considered as sub-systems of administrative law with a definite level of autonomy.

A significant part of external integrity discussion is dedicated to interpreting the multicentric nature of administrative law since Poland's accession to the European Union. Emphasizing that EU law affects all norms of administrative law as this impact varies, the complex impact of the EU law on national administration and its integrity are analysed in numerous dimensions. This helps to identify the effect of multicentricity on the integrity of public administration pro and contra and leads to the conclusion of completion; i.e. the creative force that lies in the interaction of national law, international law and EU law contributes to a coherent system of administrative law. In such system administrative law and jurisprudence has the role of establishing a 'stable core' as *Wszolek* highlights: its task is to reconcile the safeguarding of valuable elements accounting for national juridical heritage as an identity and the necessary changes of Europeanisation to fulfil the assumed international obligation embodied in EU membership.

As a closure, administrative law is interpreted in the axis of aggressive and defensive nature when it comes to identifying its role in regards certain spheres of social life that causes necessary overlapping areas with other branches of law.

Despite its well-proportioned, logically structured statements and reasonings in each chapter, the Book is not a light reading but that is what gives it its highest value in the academic field. The Book does not give the opportunity the dissolve actual legal problems but provides an insight into Polish administrative law perspectives in view of the neighbouring branches of public and private law with theoretical and positive law analysis. In addition to the theoretical basis founded on domestic and international academic works, a vast amount of Polish legal literature and legislation is explored. This latter is also attached as an appendix offering a starting point for in-debt research and understanding.

Besides giving a pattern to follow for academics of administrative law how to present and interpret their concept of this branch of law, the Book is a useful source of information with a sophisticated appearance. It gives the impression of holding a research handbook not

only for domestic users but for all who wishes to study Polish legal subjects to understand the system and to start a multidisciplinary research with comparative analysis.

*Tolle et lege!*