

A Review of the Administrative Law in 2021

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Abstract

This article looks into the current development of case law, acts amendments and amendment drafts in field of the administrative law in 2021. Regarding the case law, constitutional interpretations announced by the Grand Justice, decisions of Joint Senat of the Supreme Administrative Court and all instances of administrative courts are included. The relevant issues will be presented under the framework of the general theory of the administrative law.

Among the 14 constitutional interpretations in 2021, the Grand Justices dealt with the protection against double jeopardy in case of penalties concurrence of the criminal law and the Social Order Maintenance Act in No. 808, and the issues of expropriation compensation for land owners in case of designation of historic buildings in No. 813. The Supreme Administrative Court declared in its two decisions how to classify regulations which obligates public authorities to claim unjust enrichment in public law against citizens within a shorter period as a special norm of extinctive prescription, and how to apply the non-retroactive principle to the regulations of administrative procedure and organization.

In regard to administrative courts decisions, this article will introduce cases especially with constitutional argument or international human rights issues. It aims to present how the courts balance the public interests and human rights protection for individual. Furthermore, the legal issues in the decision of administrative courts relating to COVID-19 quarantine measures and vaccine management will be reviewed and discussed in this article. It can conclude an

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insufficiency in the current legal systems of COVID-19 control and also violation of the Administrative Procedure Act in the administrative practice.

In consideration of the last development of legislations in field of the administrative law, this article will briefly comment the amendment drafts of the Administrative Executive Act and the State Compensation Act. It will also introduce the amended regulations of jurisdiction in the Administrative Litigation Act in 2021. In this context the conflict and resolution of jurisdiction between civil and administrative courts regarding to mandatory hospitalization of the Mental Health Act will be mentioned.

Keywords: human rights conventions, COVID-19 prevention and control measures, habeas corpus, jurisdiction, extinctive prescription in public law, non-retroactive principle, state compensation