

A Review of the Administrative Law in 2022

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Abstract

Regarding the development of administrative law in 2022, one can analyze and review it based on four traditional aspects: principles of administrative law, administrative organization law, administrative action law, and administrative remedies law.

In terms of principles of administrative law:

Regarding the Principle of Legal Reservation, the Constitutional Court, particularly the Judgement No. 19 in 2022, recognized the application of the principle of legal reservation to the suspension and continuation system of the National Health Insurance Act. This interpretation is commendable.

In terms of administrative organization law:

The reorganization of the Farmland Irrigation Associations into an administrative agency (the Farmland Irrigation Bureau) raises constitutional issues addressed in the Judgement No. 14 in 2022. The Constitutional Court acknowledged the authority of the legislature but neglected the issue, if the assembly and association rights of the original members of the Farmland Irrigation Associations were violated? This omission is regrettable. In the case of standards for pesticide residues in the division of powers between the central and local governments (the Judgement No. 6 in 2022), the Constitutional Court did not

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recognize the possibility of the central and local governments sharing powers, instead acknowledging the “Legal Preemption Theory”. This raises suspicions of a “regression of the rule of law”.

In terms of administrative action law:

Due to the dual nature of administrative and judicial (investigative) actions in police measures, particularly in measures such as breath tests, blood tests, and urine tests, the Judgement No. 1 and No. 16 in 2022 only recognized the judicial nature of police measures, missing the opportunity to provide a dual classification for these police measures.

In terms of Administrative Remedies Act:

The most notable aspect is the amendment to the Administrative Litigation Act, which came into effect on August 15, 2022. However, the content of the amendment does not assign all general cases to the administrative courts of first instance, potentially making it difficult to achieve the goal of a “pyramidal litigation system”.

Keywords: Principle of legal reservation, non-retroactive principle, The Principle of Reliance Protection, separation of powers between Nation and Local Government, Administrative and Judicial acts, Administrative Planning, New Administrative Proceeding Acts, State Compensation Law