

2017-2020: „Transgovernmental networks and their impact on domestic legal order (case study of competition authorities networks)”; principal investigator: PhD Mateusz Błachucki

Description For The General Public

The research project aims at identification of legal character and classification of transgovernmental networks (TGNs) and their impact on domestic legal order and domestic administration. The research provides comprehensive analysis of the new phenomenon in administrative law which are TGNs. Special attention will be given to describe and evaluate the impact of those networks on domestic legal order and actual practice of Polish public administration. The average citizen perceives national and European or international public administrations as distinct bodies. This means that one assumes that they are independent of each other and only occasionally work together when exercising their powers. In reality, such a simple and complete separation of national administrations from European or global public administrations is far from true. From several decades, we can observe that national public authorities were beginning to create a mosaic of connections with foreign and EU as well as global counterparts. These links may take form of transgovernmental networks consisting of public administrations. TGNs present the entire spectrum of legal and organizational solutions. They cover more and more areas of social life (eg. the protection of competition, consumer protection, energy, telecommunications, environmental protection, general product safety, migration, or even the protection of personal data and others). Citizens often do not realize that actions taken by national administrations are the result of agreements within the framework of transgovernmental networks. Variety of transgovernmental networks covering new areas of regulation and involving new public authorities precludes analyzing all of them under one research project. Therefore, networks of competition authorities were chosen as an example to study functioning of transgovernmental networks. International cooperation of competition authorities flourishes and transgovernmental networks are providing the framework for this cooperation. Networks of competition authorities have been developing extensively and they are engaging more and more competition authorities from different regions and continents. Furthermore, the competition law is perceived as the branch of law which develops heavily due to influence of networking.

These issues are relevant scientifically and socially. Surprisingly, there is a noticeable lack of scientific reflection on these problems in Poland. Therefore to analyze the phenomenon of transgovernmental networks new concepts should be elaborated. Traditional concept of administrative cooperation agreements is no longer sufficient to analyze the current discussion on international cooperation between national administrations. Complex forms of cooperation between national competition authorities require a distinct and more adequate taxonomy. Some attempts to describe these phenomena in Polish literature may be identified, but they are insufficient to cover all aspects of the relevant subject. The practice of Polish administration authorities in the field of joining and participating in transgovernmental networks is marked by randomness and the lack of awareness of wider perspective on the side of public officials. One cannot identify any long-term goals of Polish administration that international administrative cooperation has to serve. For this reason, there is no well-thought-out internal policy coordinating the participation in these networks in Polish independent authorities. What is also important is the lack of any reflection on the part of the chief organs of the Polish administration, how to control this grassroots and independent administrative authorities in regard with their international activities.

International administrative cooperation of Polish public administration authorities may adversely influence rights of Polish citizens. In Polish administrative law there is currently no general or specific guarantee for data transmission from Polish to foreign or EU authorities. This sphere is essentially unregulated under the Polish law. Exchange of information and evidence in the framework of transnational networks could pose a significant threat to the protection of the rights of Polish citizens and undertakings. The other risks associated with transgovernmental networks should be seen in the context of reducing the transparency of functioning of public administration in Poland and the reduction of social control over Polish public administration. The transfer of national powers and even decision-making process at the international level by the Polish authorities might just intensify these risks. The proposed research should indicate how to prevent the negative effects of these risks. The study will allow sensitizing public opinion on the issue of creating supranational administrative structures beyond the control of democratically elected

Polish authorities. At the same time it should be emphasized that the development of transgovernmental networks may also lead to benefits for third parties (outside the sphere of public administration). These benefits are felt mostly by Polish entrepreneurs.

The result of the study should be a comprehensive analysis of the phenomenon of transgovernmental networks and associated benefits and risks for Polish citizens and undertakings. Analytical framework will be elaborated which should facilitate further research. Based on these findings, recommendations will be formulated for the Polish legislator and competent chief administration authorities to carry out the desired changes in legislative process and administrative practice.