



**WYDZIAŁ PRAWA
I ADMINISTRACJI**
Uniwersytet Łódzki



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Doctoral Dissertation

*The place and the role of inspections in activities
carried out by public administration*
(Miejsce i rola inspekcji w działalności administracji publicznej)

Summary

*A doctoral dissertation prepared
at the Department of Administration Law
and Administrative Science
under the supervision of
Prof. zw. dr hab. Zofia Duniewska*

Łódź 2017

Summary

The subject of this doctoral thesis is the presentation of the place and the role of inspections in activities carried out by public administration. The term „inspection” is defined in dynamical and static way. Inspections – in institutional meaning – have been operated since public administration has come into existence. The number of those institutions in Poland has changed as the years went by. It was caused especially by the economical, political and ideological issues. In spite of the long-term process of the evolution, inspections are still present in the structure of public administration. They are usually numbered by Polish doctrine – besides services and guards – among the notion of „administrative policy”. The legal entity of inspections is justified by the necessity of protecting valuable legal interests. Inspections activity must be based on appropriate legal regulations and done within the limits of law. Bodies of inspections are often included into the group of special administration bodies. Due to position of inspections in the structure of public administration, they are also described as „special inspections” or „department inspections” by representatives of Polish legal literature. It should be mentioned that certain entities (e.g. bodies of: building or technical supervision) are sometimes called „inspections”, though they are not named like that by the legislature. It is justified because they are similar to inspections. However, some distinctness is caused that in doctrine they are – which is more appropriate – called „parainspections”.

What prompted the choice of the topic for this dissertation was the specific role of inspections. Apart from a few publications which only touch upon the issue of organization or activity of one inspection (e.g. the State Sanitary Inspection or the Pharmaceutical Inspection), there are no publications which would comprehensively describe the issue of inspections, especially the place and the role of them in activities carried out by public administration. This area of research was chosen – among other things – in order to fulfil the gap in Polish legal literature. The other factor which determined the choice of the topic was discussion – which has been carried on lately – about the role and organizational aspects of inspections. The debate is devoted to decommission of some currently operating inspections or creating new one.

The purpose of the thesis is the research and the assessment of the legal status and the role of inspections. Considerations presented in this dissertation are contributed to describe *de lege lata* and *de lege ferenda* postulates. They are allowed to the appropriate assessment of examined entities and rules of their operating. The analyses carried out in the dissertation are concentrated on postulates aimed at modifying and improving inspections activities.

The dissertation is consisted of: an introduction, five chapters which are finished by short conclusions and the final conclusion. The first part of paper is focused on the notion and general characteristics of „activities carried out by public administration”. Starting from the definitions of two terms: „public administration” and „the activity”, the scope of the notion of „activities carried out by public administration” are presented. In the paper it is connected with tasks (also functions) and the legal forms of public administration. The considerations pertaining characteristics, principles and the classification of „public administration activity” are also mentioned in this section of the doctoral thesis.

Administrative policy plays a crucial role in activities carried out by public administration. Institutionally, administrative police should be understood as a system of bodies whose exclusive or main task is to fulfil the police function. Inspections are included in the administrative police. Consequently, the issues of inspections as a part of administrative police are discussed in the second chapter of the thesis. First of all, my attention is drawn e.g. to the origins and the evolution of Polish institutions, which are called „inspections”. Secondly, the meaning of the term „inspection” is shown. It is noticed that those term can be defined in several different ways. Having regard to the definitions presented in Polish administrative law doctrine – in the dissertation the notion of „inspection” is understood as an institution, which is:

- situated in the frame of organizational structure of public administration,
- called directly „inspection” by the legislature,
- acted in specialized types of matters stated by the administrative law,
- fulfilled the function of „administrative police” connected with protection of valuable interests (protected by the law) – especially due to supervising and controlling – by using variable types of legal forms of administration activity.

According to mentioned definition, eight Polish institutions: the State Sanitary Inspection, the Veterinary Inspection, the Trade Inspection, the Agricultural and Food Quality Inspection, the State Plant Protection Inspection, the Environmental Protection Inspection, the Pharmaceutical Inspection and the Road Transport Inspection are considered.

The main determinants of the activity carried out by inspections – especially „interests protected by the law” are examined in the third chapter of the thesis. This section deals with meaning of the term „interest protected by the law”, as well as main divisions of interests protected by the law, which are presented in the doctrine (e.g. the classification created by M. Szewczyk). The attention is drawn to non-material (public and individual) interests (existential and other interests). Therefore, interests protected by the law, significant in activities carried out by inspections (like e.g. „public health”, „sanitary safety”, „environment, „food safety”) are disclosed. The scope of inspections activities and organizational matters (for example issues concerning organizational structure of inspections, subordination and manning of their central and territorial bodies) are also shown in the third chapter.

The aim of fourth chapter is to examine tasks, competences and legal forms of inspections activities. It is consisted of two parts. First section is devoted to present tasks and competences of inspections – e.g. the sens of those notions. Tasks of inspections are divided into few groups (like tasks connected with: control, supervision, cooperation or regulatory functions). The part concerning competences of inspections is dealt with supervising and control competences. They are considered as two fundamental competences of those institutions. Differences and similarities between them are also described here. The legal forms of their activities are discussed in the second part of the fourth chapter. They are composed of classic and specific legal forms. Classic legal forms, which are used by bodies of inspections include e.g.: normative acts, acts of general application of the law, administrative acts, material-technical actions and social organizing activities. In this section of paper also specific legal forms of inspections activities are distinguished. Those forms – for instance, acts of information – are issued by some inspections.

In the last chapter of the thesis it is pointed that inspections cooperate with variable entities. Those relations are examined in international and national dimension. First of all, cooperation with international organizations and with other entities similar to national inspections are described. Then, the attention is focused on cooperation of inspections with selected national entities situated in the structure of public administration, especially with some services and guards. Relations of inspections with local authorities of self-government principle are also mentioned. Inspections and international or national entities cooperate usually in compliance with signed bilateral and multilateral agreements on cooperation of control activities.

The final part of the paper gives an answer to the research questions presented in this dissertation, indicating the directions for further research on this field.

The main research method adopted in this dissertation is a dogmatic-legal method. In the chapter concerning evolution of inspections the historical-legal method is used. In chapters regarding competitions, legal forms of activity and cooperation of inspections with other entities also the empirical-legal method is taken into consideration. This dissertation was prepared on the basis of the provisions of Polish law, especially statutes (creating inspections and concerning their activities), as well as bylaws and orders. The norms of European Union law was also kept in view. Furthermore, the thesis examined views of Polish doctrine and the jurisprudence especially of Polish administrative courts.

The paper ends with lists of legal acts, cited judgements, biography and other sources, which includes comments, collective works and articles.

This dissertation describes and analyses the legal status as at 28th of February 2017.

Katarzyna Mazur